



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

IN REPLY REFER TO

5090
Ser N45/ N4U732460
23 September 2004

From: Chief of Naval Operations (N45)

Subj: SUPPLEMENTAL ENVIRONMENTAL PLANNING POLICY

Ref: (a) SECNAVINST 5090.6A
(b) SECNAVINST 5000.2B
(c) OPNAVINST 5090.1B, Change 4

Encl: (1) Navy Supplemental Environmental Planning Policy

1. The Navy is able to achieve its mission at home, at sea, and abroad more efficiently when environmental planning is properly integrated into Navy decision-making for those Navy actions that have the potential for adverse environmental consequences. This requires advance planning and early coordination within and outside of the Navy and the preparation of quality and consistent National Environmental Planning Act (NEPA) and Executive Order (EO) 12114 documents.

2. As a result of recent revisions to the SECNAV Environmental Planning Policy identified in reference (a), recent alignments in the Navy, including the standup of Commander, Navy Installations (CNI) and the increasing role of the Area Environmental Coordinators (AEC), new endorsement/approval requirements for environmental planning documents have been introduced. These changes, coupled with other internal initiatives, are key drivers for developing common business practices for managing the Navy environmental planning process. This supplemental environmental planning policy institutes those process improvements that will result in consistent and efficient implementation of Navy actions.

3. This supplemental policy is effective immediately and applies to all environmental planning actions, including those actions that fall within the realm of weapons systems acquisition, (reference (b)), training operations and exercises at sea and on land, science and technology related programs and shore installation management (SIM). The policies and procedures in enclosure (1) provide additional details regarding the requirements found within reference (c) until appropriate chapters are redrafted, as well as, codify many existing practices. Some of the more significant aspects of the policy are identified below:

- Review Process and Associated Timelines for Environmental Planning Documents for CNO Action. These timelines are mandatory and must be incorporated into overall document

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development and project management schedules to ensure Navy-wide consistency, quality reviews and compliance with environmental laws.

- Department of the Navy Approved Categorical Exclusions (CATEX) List (SECNAVINST 5090.6A).
- FONSI Signature Delegation and Requirements to Maintain Delegation
- Requirements for Determining Technical and Legal Sufficiency of Environmental Planning Documents
- Geographic Applicability of NEPA and EO 12114 Requirements
- Marine Mammal Protection Act and Endangered Species Act Consultations/Analyses Requirements
- Regulatory/Statutory Conclusions in Environmental Planning Documents
- Basic Environmental Planning Training Requirements for Navy Environmental Planners
- E-mail Account for Official Environmental Planning Correspondence

4. This office continues to pursue opportunities to refine and improve the environmental planning process in an effort to promote the development of consistent, high quality environmental planning documents, minimize cost and time for document preparation and review, and promote teamwork to make the process more useful to Navy decision makers.

5. My point of contact for this matter is Ms. Karen Foskey at (703) 602-2859 or via email at karen.foskey@navy.mil.



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C SECNAVINST 5090.6A "Environmental Planning for Department of the Navy Actions" of 26 APR 04

D Area Environmental Coordinator (AEC) Guidance and Regional Environmental Coordinator (REC) Designation, CFFC ltr 5090 Ser N773/365 of 24 NOV 03

E Regional Environmental Coordinator (REC) and Navy On-Scene Coordinator (NOSC) Designations, COMPACFLT memorandum 5090 SER N01CE/744 of 03 MAY 04

F "Review and Processing of EAs/OEAs Requiring CNO (N45) Action" Signature Authority for Shore Installation Management (SIM) Findings of

G No Significant Impact (FONSIs), CNO (N45) ltr 5090 Ser N456/N4U732337 of 20 APR 04

H Legal Review of NEPA and Executive Order 12114 Documents, 5090 Ser N4/949-03 of 12 SEP 03

I CNO (N45) Statement of Technical Review for NEPA/EO 12114 Documents

J "Review and Processing of EISs/OEISs at CNO and Secretariat Levels"

K Standard Outline/Template for an NOI

L Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy, 32 CFR Part 775 of 23 February 2004

M Section 7 Consultation Procedures Under the Endangered Species Act (ESA), CNO (N45) ltr 5090 Ser N456N/3U574746 of 25 JUL 03

N CNO (N45) NEPA/EO 12114 Environmental Checklist

O Format for Records of Decision (RODs) Prepared Pursuant to the National Environmental Policy Act, CNO ltr 5090 Ser N456/8U595368 of 09 MAR 98

1. Purpose and Scope. This supplemental policy establishes and clarifies the procedures that will be used by Navy in processing, endorsing, and approving environmental planning documentation developed in compliance with NEPA and EO 12114.

a. The policies and procedures herein are intended to provide additional details regarding the requirements found within appropriate chapters of OPNAVINST 5090.1B, until such chapters are redrafted. In the case of any discrepancies between this supplemental policy and OPNAVINST 5090.1B, the policies identified in this supplemental policy take precedence.

b. This supplemental policy applies to all NEPA and environmental planning actions including those actions that fall within the realm of weapons systems acquisition (SECNAVINST 5000.2B), training operations and exercises at sea (attachment (A)), training operations and exercises on land, science and technology related programs (attachment (B)), and shore installation management (SIM).

2. Background. The Navy is able to achieve its core mission at home, at sea, and abroad more efficiently when environmental planning is properly integrated into Navy decision-making for those Navy actions that have the potential for adverse environmental consequences. This requires advance planning and

early coordination within and outside of the Navy and the preparation of quality and consistent NEPA and EO 12114 documents. Recent alignments in the Navy, including the standup of Commander, Navy Installations (CNI) and the increasing role of the Area Environmental Coordinators (AEC) in mission/operational environmental planning, have introduced new endorsement/approval requirements for environmental planning documents. These changes, coupled with other internal initiatives, are key drivers for developing common business practices for managing the Navy environmental planning process. This supplemental environmental planning policy institutes those process improvements that will result in consistent and efficient implementation of Navy actions. CNO (N45) is holistically reviewing the Navy environmental planning process. A significant initiative is the preparation of an environmental planning policy manual that will incorporate this supplemental policy and provide additional detailed implementing instructions.

3. Policy. In preparing and processing environmental planning documents, Navy shall adhere to the following specific policies and procedures:

a. N456 Environmental Planning E-Mail Address. An e-mail account has been established for CNO N456 Environmental Planning at the following address: N456EnvPlanning.opnav@navy.mil. This e-mail address should be used by the environmental planning community to verify that CNO (N45) is in receipt of chain of command endorsements of either of the following documents: notification letters for Environmental Assessments/Overseas Environmental Assessments (EAs/OEAs) and Notice of Intent (NOI) Packages for Environmental Impact Statements/Overseas Environmental Impact Statements (EISs/OEISs). The use of this e-mail address is also appropriate for transmission of: Findings of No Significant Impact (FONSIs), and advanced copies of Memorandums of Legal Sufficiency and Statements of Technical Review. The use of the e-mail address is not appropriate for the transmission of major environmental planning documents (e.g., EAs/OEAs or EISs/OEISs). In addition, it should not be used for project specific correspondence; this type of e-mail correspondence should always be sent to the e-mail address of the assigned CNO (N45) action officer.

b. Categorical Exclusions.

(1) Categories of Action Excluded from Further Analysis Under NEPA (CATEXs). Department of the Navy approved

CATEXs are listed in SECNAVINST 5090.6A (attachment (C)), which was effective on 26 APR 04. Navy action proponents are cautioned that a CATEX cannot not be used if any of the criteria listed in paragraph 5c of attachment (C) apply to the proposed action.

(2) Documenting Use of a CATEX. A decision by an action proponent to not prepare an EA or EIS on the basis of one or more CATEXs must be documented in a Record of CATEX in accordance with OPNAVINST 5090.1B (Categorical Exclusions). A Record of CATEX is normally 1-2 pages in length and signed by the Commanding Officer or his designee, or the Program Executive Officer for an acquisition action. The Record of CATEX must describe:

(A) The CATEX(s) found applicable by the action proponent;

(B) Facts supporting the use of the applicable CATEX(s); and

(C) Specific considerations of whether the exceptions to the use of a CATEX are applicable (i.e., criteria listed in paragraph 5c of attachment (C)).

At a minimum, a Record of CATEX should be retained in Command files for 5 years.

(3) Overseas CATEXs. The Office of the Secretary of Defense is the approval authority for Overseas CATEXs. At present, no Overseas CATEXs are approved.

c. Environmental Assessments (EAs) and Overseas Environmental Assessments (OEAs). Notification provides a greater internal awareness of Navy environmental planning activities and proposed projects, ensures consistent application of policy, and avoids planning conflicts. When an action proponent decides that it is appropriate to prepare an EA or OEA, the action proponent shall notify CNO (N45) of this action in writing, via the chain of command, including coordination with the AEC and Regional Environmental Coordinator (REC) in accordance with attachments (D) and (E). If the proposed action involves marine mammal issues, the action proponent will adhere to the notification and consultation procedures identified in 3.j of this Supplemental Environmental Planning Policy. After a reasonable period, allowing for chain of command review and endorsement, the action proponent shall follow-up via e-mail to

N456EnvPlanning.opnav@navy.mil to verify that CNO (N45) has received the notification letter.

(1) EA/OEA Action and Review Process. EAs or OEAs that require CNO (N45) review or action (including those involving potentially sensitive public interest issues and/or are scientifically controversial regarding environmental effects) shall be processed in accordance with the timeline provided in attachment (F). This timeline is significant because it provides the action proponent with all the details involved in CNO (N45)'s review and processing of EAs/OEAs submitted for action, including clarification of the roles and responsibilities of the action proponent, CNO (N45), and ASN, where appropriate. The timeline identifies the number of working days that CNO (N45) will require to complete the review and processing of an EA/OEA. The time allocations for the action proponent are not specified since they are dependent on the size of the document, review requirements internal to the individual command, consultation and/or permitting requirements that can range up to 240 days, the number and complexity of comments received on a document, and the length of time required to fully respond by incorporating and highlighting revisions in a complete paper copy for resubmission to CNO (N45).

(2) Notification Letter and Contents. The contents of a notification letter for an EA or OEA should be sufficient to provide the reader with an immediate understanding of the proposed action and its elements, as well as the alternatives proposed for analysis. In addition, any factors that could affect the projected schedule should be brought to the attention of CNO (N45) as soon as the action proponent becomes aware of such issues, even after notification is complete. Notification letters for EAs/OEAs should normally be 3 to 5 pages (not including any attachments) and address the information identified below:

(A) Location(s) of the proposed action (with maps and/or charts).

(B) Date of proposed test (if applicable).

(C) Identity of the agency(ies) with whom a cooperating agency relationship is being considered. If the action proponent is a non-Navy tenant on a Navy activity or if the action proponent is a Navy activity on non-Navy-owned property or activity, there should be an explanation about how the proposed action will be

coordinated and approved (e.g., FONSI is to be signed by both parties).

(D) A brief description of proposed action, purpose and need for the action, and proposed alternatives. With respect to the proposed alternatives:

(i) For all EAs, alternatives must, at a minimum, include the proposed action, no action, and at least one other reasonable action alternative. If an additional alternative is not practical, an explanation must be provided.

(ii) For OEAs where the proposed action will affect the U.S. Exclusive Economic Zone (EEZ) (12-200 nautical miles), the analysis of at least one reasonable alternative besides the proposed action and no action alternatives is required, even though the need for reasonable alternatives is not addressed in EO 12114, SECNAVINST 5000.2B, or OPNAVINST 5090.1B. If an additional alternative is not practical, an explanation must be provided.

(E) A brief explanation of how a reasonable range of alternatives will be generated and evaluated. If screening criteria will be used (e.g., operational and/or location needs), they must be listed. Alternatively, a summary of the basis for identifying reasonable alternatives for analysis must be provided.

(F) A brief description of acoustic thresholds/methodology to be used in the analysis of the impacts of Navy-generated sound in the water, if applicable (e.g., intend to use Churchill EIS methodology for explosives).

(G) Based on current knowledge, an identification of important or potentially significant environmental issues that will be analyzed in the document (such as wetlands, endangered species, high noise levels, presence of marine mammals).

(H) An identification of Federal or state agencies or elected officials with whom the action proponent anticipates coordination.

(I) Based on current knowledge, an identification of issues of potential controversy or public interest. If there are significant potential issues of controversy or public interest, the action proponent should consider holding public meetings. If such meetings are scheduled, CNO (N45) should be notified of the scheduled dates and locations.

(J) Additionally, for those EAs/OEAs requiring CNO (N45) action, a milestone schedule must be included that identifies: the anticipated date the document will arrive at CNO (N45) for review and comment; the projected target date for document approval or endorsement; and, any time-sensitive considerations. If the EA/OEA involves potentially sensitive public interest issues and/or is scientifically controversial regarding environmental effects, the schedule should be flexible enough to allow the scheduling of briefings if requested by CNO (N45) or SECNAV staff.

(3) EA/OEA Addendums. An addendum to a previously approved EA/OEA is prepared when there is a change in or modification of the proposed action before it was executed or completed. For such proposed actions, further analysis is required in order to determine whether significant impact or harm would occur to the environment. Changes to or modifications in the proposed action can take the form of:

(A) Physical changes in the environment, different date or season for implementing the action, different location, different operational or test parameters; or

(B) The availability of new scientific data concerning some aspect of the proposed action (e.g., there is new density data for marine mammal species or new evidence becomes available concerning the presence of an endangered species at the proposed action site).

In the case of such changes or modifications, the action proponent must prepare an addendum to the previously approved EA/OEA that discusses the changed conditions and the potential environmental consequences of those changes. The EA/OEA addendum submitted for review/approval must be a complete document with the changes integrated into the previously approved EA/OEA; new text should be highlighted therein.

Submission of changed pages with the previously approved EA/OA as an attachment is not acceptable.

(4) Negative Decision for Previously Approved OEAs.

If a previously approved OEA has been prepared for an action, and a subsequent action **identical** to that which was documented in the previously approved OEA is proposed (e.g., same test parameters, same season, same location), a Negative Decision is prepared. A Negative Decision must:

(A) Describe the proposed action; and

(B) Succinctly state that no further analysis is required because, on the basis of a previously approved OEA, the proposed action has been determined not to significantly harm the environment outside of the U.S. The title of the previously approved OEA and its date of approval must be included in the Negative Decision.

A Negative Decision must be retained in Command files for no less than 5 years after conclusion of the proposed action.

(5) FONSI Signature Authority Delegation Eligibility.

CNO (N45) may delegate FONSI signature authority to eligible commands. Eligibility factors that could be considered will include but not be limited to:

(A) Qualified and dedicated environmental staff at the Echelon II level;

(B) Dedicated legal advisor; and

(C) Qualified designated signator:

(i) One designated flag officer for all non-BRAC, non-weapons systems-related EAs.

(ii) One designated flag officer or senior civilian official (SES level) for all weapons systems acquisition-related EAs.

(6) FONSI Signature Authority Delegation by CNO (N45). The listing of commands who have been delegated FONSI signature authority by CNO (N45), as shown in OPNAVINST 5090.1B (EA Process), is updated as follows: COMLANTFLT, COMPACFLT, CNI (Attachment (G)), NETC, COMNAVRESFOR, COMNAVSEASYSKOM, and COMNAVAIRSYSKOM. In addition, per SECNAVINST 5000.2B, FONSI

signature authority has been delegated to the Program Executive Officer, Systems Commander, or Direct Reporting Program Managers for non-BRAC weapons systems acquisition. All FONSI's must be signed by a flag officer or senior civilian official (SES level) at the headquarters level of the action proponent's Command (Commands listed above). FONSI signature authority cannot be further delegated by the headquarters of the action proponent.

(7) Requirements for Maintaining Delegated FONSI Signature Authority and/or OEA Approval. To retain delegated FONSI signature authority and/or OEA approval, each Command must comply with the conditions and authorities listed below. Some of the requirements listed below are already contained in OPNAVINST 5090.1B and all will be included in the next revision of that policy document.

(A) Prior to endorsement or approval and signature of an EA or OEA, the Command will ensure that each EA/OEA is accompanied by a memorandum of legal sufficiency (attachment (H)) and a completed statement of technical review (attachment (I)). These memoranda must be retained with the FONSI/letter of approval in the Command files.

(B) The Command must ensure that within two weeks of signature, copies of all final EAs and OEAs are submitted to CNO (N45) on a CD-ROM in Adobe Acrobat 5.0 (.PDF) format (minimum document resolution at 300 dpi). The CD-ROM should include the final EA/OEA, the signed FONSI for an EA or letter of approval for an OEA, Notice of Availability for the EA, signed legal and technical sufficiency documents, and all endorsement letters. Paper copies must be made available, if requested. Electronic storage limitations currently prohibit electronic transmission of final environmental planning documents. Future process improvements for document submission are underway.

(C) The Command must ensure that mission/operational/environmental issues affecting continental U.S. (CONUS) and the sea ranges and OPAREAs that support CONUS-based units are coordinated with Fleet Forces Command (FFC) in its role as AEC (attachment (D)). COMPACFLT serves as the AEC for outside continental U.S. (OCONUS)-Pacific per attachment (E). CNO (N45) may involve SECNAV staff in discussions concerning any OEAs. Unresolved issues between the AEC, other major commands, and action proponents must

be elevated and resolved in a mutually satisfactory manner by CNO (N45) staff before the Command may endorse the OEA.

(D) Program Review Summary. Each designated command will prepare a program review summary as a WORD table (see Figure 1 for basic format and content) for submission to CNO (N45) at the end of each fiscal year (no later than 15 November) to include a listing of all Records of CATEX for use of CATEX #44 (Routine Testing and Evaluation of Military Equipment) and CATEX #45 (Routine Military Training) only, Negative Decisions, and EAs, OEAs, EISs, and OEISs that were signed and approved during the preceding fiscal year. Costs should be reflective of expenditures for each environmental planning document prepared during that particular fiscal year, not total costs obligated for each environmental planning document. The program review summary should be e-mailed to N456EnvPlanning.opnav@navy.mil.

Figure 1
Sample Program Review Summary

Claimant	Type of Document	Document Title	Date Signed/ Approved	Environmental Issues	Cooperating Agency	Cost	
						In House	Contract

Key:

Type of Document = Record of CATEX for use of CATEX #44 or #45, Negative Decision, EA, OEA, EIS, or OEIS. For Record of CATEX (#44/#45), document title should be the type of training operation/exercise or test conducted (e.g., BOMBEX, GUNEX, MISSILEX, SINKEX or in the case of a test, the equipment used).

Environmental Issues = Succinct descriptions (e.g., water quality, ordnance, sound in the water, MOA with SHPO). Also identify any consultations with the regulators (e.g., NOAA Fisheries, USFWS) that were undertaken.

Cooperating Agency = Identify cooperating agency, if any (e.g., NOAA Fisheries, FAA, NPS, tribal government).

Cost = Costs should be reflective of expenditures for each environmental planning document prepared during that particular fiscal year, not total costs obligated for each environmental planning document.

Note: Commands must also provide the same data identified above for EISs/OEISs for the fiscal year. Costs should only include those funds during the identified fiscal year, not total costs obligated for an EIS or OEIS.

d. Environmental Impact Statements (EISs) and Overseas Environmental Impact Statement (OEISs). The process for preparing, releasing to the public, and obtaining a decision to implement the action is generally lengthier than that identified for an EA or OEA, primarily because of the specific procedural review periods required for an EIS or OEIS. The review and processing of EISs/OEISs by CNO (N45) shall follow the timeline shown in attachment (J). This timeline is significant because it provides the action proponent with all the details involved in CNO (N45)'s review and processing of

EISs/OEISs, including clarification of the roles and responsibilities of the action proponent, CNO (N45), and ASN, where appropriate. The timeline identifies the number of working days that CNO (N45) will require to complete the process. The time allocations for the action proponent are not specified since they are dependent on the size of the document, review requirements internal to the individual command, consultation and/or permitting requirements that can range up to 240 days, the number and complexity of comments received on a document, and the length of time required for the action proponent to fully respond by incorporating and highlighting revisions in a complete paper copy for resubmission to CNO (N45).

(1) Publishing the Notice of Intent (NOI) to Prepare an EIS. Per OPNAVINST 5090.1B (Scoping), CNO (N45) is responsible for conducting technical and legal review of the NOI, coordinating with SECNAV, and publishing the NOI to prepare an EIS in the *Federal Register*. **Although OPNAVINST 5090.1B, Appendix E (Requirements for Preparing Overseas Environmental Impact Statements) directs an action proponent, via the chain of command, to obtain concurrence on its decision to prepare an OEIS, there is no requirement to publish an NOI in the *Federal Register*.**

(2) Review of a Decision to Prepare an EIS or OEIS and Submittal of a NOI/Notification Package. When an action proponent decides that it is appropriate to prepare an EIS or OEIS, a NOI Package will be prepared and submitted to CNO (N45) via the chain of command, including coordination with the AEC and REC in accordance with attachments (D) and (E). For an OEIS, an action proponent is required to prepare and submit a Notification Package that contains elements 3.d.(3)(A) through (C) as identified below for an NOI Package for an EIS. CNO (N45) will publish the NOI to prepare an EIS in the *Federal Register*; the action proponent may also distribute scoping letters to the public concurrent with the publication of the NOI in the *Federal Register*, but not before. With respect to marine mammal issues, see notification requirement identified in 3.j.

(3) The NOI Package for an EIS. The NOI Package will consist of a cover letter, Preliminary Description of Proposed Action and Alternatives (DOPAA), and a draft NOI. After a reasonable period, allowing for chain of command review and endorsement, the action proponent shall follow-up via e-mail to N456EnvPlanning.opnav@navy.mil to verify that CNO (N45) has

received the NOI Package. The NOI Package will consist of the following:

(A) The cover letter for an EIS/OEIS shall include:

(i) The identity of the action proponent.

(ii) The identity of the agency(ies) with which a cooperating agency relationship is being considered. If the action proponent is a non-Navy tenant on a Navy activity or if the action proponent is a Navy activity on non-Navy-owned property or activity, there should be an explanation about how this project will be coordinated and approved, as described for EAs/OEAs.

(iii) Summary of projected schedule, using attachment (J), indicating, as applicable to an EIS or OEIS, anticipated publication of the NOI; dates for scoping meetings; list of potential consultations/permits; anticipated date for completion of a draft EIS/OEIS; target date for completion of a final EIS/OEIS, ROD/Letter of Endorsement); and technical and legal points of contact.

(B) Proper organizational/chain of command endorsements.

(C) A preliminary DOPAA, consisting of:

(i) The identity of the action proponent;

(ii) Anticipated cooperating agency relationship(s);

(iii) Summary and scope of the proposed action (with maps and/or charts);

(iv) Summary of purpose and need (including mission and background, as appropriate);

(v) A brief explanation of how a reasonable range of alternatives will be generated and evaluated. If screening criteria will be used (e.g., operational and/or location needs), they must be listed.

Alternatively, a summary of the basis for identifying reasonable alternatives for analysis must be provided;

(vi) Proposed alternatives (with maps or tables);

(vii) Regulatory considerations (e.g., potential permitting and/or consultations);

(viii) Based on current knowledge, a summary of anticipated issues of concern, including Congressional issues; public interest issues; and issues of other interested parties;

(ix) Summary of public involvement plan; and

(x) Detailed projected schedule (with critical dates identified).

(D) For an EIS only, a draft NOI that includes those elements identified in attachment (K).

(4) Revisions to Draft and Final EISs and OEISs. All revisions to Draft and Final EISs and OEISs must be in paper copy (full copy of the document) with the text changes highlighted. In addition, a comment matrix (electronic and paper) listing all comments and how they were responded to must be submitted to CNO (N45) (Comment Response Package). Review of revised draft documents will commence upon receipt of this Comment Response Package.

(5) Submission of Final EISs/OEISs. Within two weeks of ROD signature, the action proponent must submit copies of all Final EISs and OEISs to CNO (N45) on a CD-ROM in Adobe Acrobat 5.0 (.PDF) format (minimum document resolution at 300 dpi). The CD-ROM should include the Final EIS/OEIS, and the signed ROD or approval for a Final OEIS. Paper copies of the documents must be made available, if requested. Electronic storage limitations currently prohibit electronic transmission of final environmental planning documents. Future process improvements for document submission are underway.

e. Mitigation Implementation. CNO (N45) is required to ensure that subordinate commands establish procedures for implementing mitigation measures described in environmental planning documents (EAs/OEAs/EISs/OEISs) per 32 CFR 775.4(d)(4) (Attachment (L)). Therefore, within two weeks of the completion

of a proposed action (operation, exercise, test, construction, land use decision, or other activity), each action proponent must provide in writing to CNO (N45), with a copy to the AEC and REC, a post-action analysis of the mitigation measures or protective measures that were applied (provided in a spreadsheet form). This requirement applies to proposed actions involving threatened and endangered species (marine and terrestrial), marine mammals, and essential fish habitat. The post-action analysis shall include the following information:

(1) Identification of the action and executed mitigation or protective measures and the reason(s) that protective measures or mitigation was necessary or required.

(2) Manpower required to implement planned mitigation or protective measures (e.g., number of persons involved in applying mitigation measures or protective measures).

(3) The time required on station for completing the operation, exercise, test, or other activity (i.e., days, hours, minutes).

(4) Brief summary of the results, including the effectiveness of mitigation or protective measures, observations made (e.g., number of marine mammals sighted or acoustically detected, behavioral observations).

(5) Identification of any adjustments/changes in mitigation implemented during the course of executing the action (e.g., halting the exercise due to marine mammal sightings).

(6) Constraints on the operations, exercise, test, or activity, if any, including time, manpower, funding, or other environmental compliance factors.

f. Official Titles and Tracking of Environmental Planning Documents. This policy is intended to alleviate misunderstandings between Commands when referring to documents that may affect the same installation and possibly the same assets or resources. The title by which environmental planning documents (EAs, OEAs, EISs, and OEISs) shall be identified in all written communications (initial and subsequent) is drawn from the subject line of the EA/OEA notification letter/E-mail/ or NOI Package transmittal letter. CNO (N45) shall be informed in writing at N456EnvPlanning.opnav@navy.mil of any changes or modifications to an environmental planning document's official identifier or title.

Example 1 - Notification Letter for an EA:

Subj: Notification of Preparation of an Environmental Assessment for the Removal of Antennas at Naval Radio Transmitting Facility, Annapolis, MD

Official Identifier/Title: Removal of Antennas at Naval Radio Transmitting Facility, Annapolis, MD - EA Notification

Example 2 - NOI Package Transmittal

Subj: NOI Package for a Draft EIS for Purchase of Land in Hancock County, MS for a Naval Special Operations Forces Training Range

Official Identifier/Title: Purchase of Land in Hancock County, MS for a Naval Special Operations Forces Training Range - NOI Package

Example 3 - E-Mail

Subj: FEIS Military Operational Increases and Implementation of Comprehensive Land Use and Integrated Natural Resources Management Plans at Naval Air Weapons Station (NAWS) China Lake, California - ROD

E-Mail Subj: ROD - Operational Increases/CLUMP/INRMP at China Lake

g. Memorandum of Legal Sufficiency. Per attachment (H), all draft and final EAs/OEAs and Draft and Final EISs/OEISs requiring CNO (N45) review and/or action must be accompanied by a Memorandum of Legal Sufficiency.

h. Statement of Technical Review. All EAs/OEAs requiring CNO (N45) review and/or action and all Draft and Final EISs/OEISs must be accompanied by a Statement of Technical Review as provided in Attachment (I). This form is not a substitute for obtaining proper organizational endorsements. The Statement of Technical Review must be completed by the lead Navy environmental planning action officer/project manager in charge of the environmental planning document. In-house staff should be used to verify the technical sufficiency of the

document, based on their technical expertise prior to submission of the document to CNO (N45).

i. Geographic Applicability of NEPA and EO 12114 Requirements. CNO (N45) is currently revising Appendix E to OPNAVINST 5090.1B. Until this revision is circulated, it is CNO (N45) policy that the geographic application of NEPA and EO 12114 requirements is determined by where the impacts on the physical environment occur rather than where a particular action takes place. The only exception to this policy is Antarctica, where NEPA (and not EO 12114), by court decision, applies to actions that would impact the environment of this continent. In summary:

(1) Geographic Applicability of NEPA. The requirements of NEPA apply to the 50 states, territories, and possessions of the United States and the US territorial sea. For purposes of domestic law, the limit of the territorial sea of the US is 3 nautical miles (NM) (three marine leagues in the Gulf of Mexico). By Presidential Proclamation 5928 of 27 December 1988, the territorial sea of the United States was extended to 12 NM for purposes of international law. As a matter of policy, the Navy utilizes the 12-NM territorial sea limit for the application of NEPA. This policy is contained in attachment (A) and is graphically depicted in Figure 2.

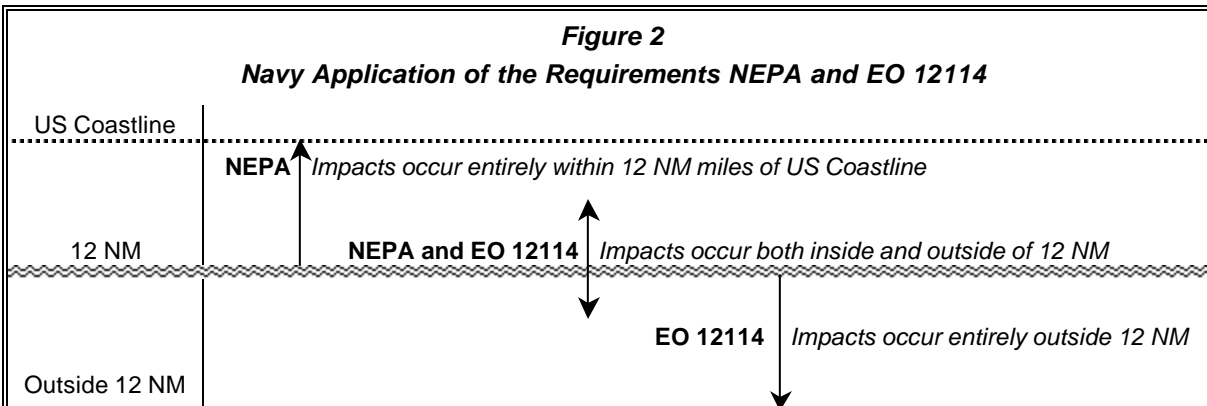
(2) Geographic Applicability of EO 12114. The requirements of EO 12114 apply to Navy actions with the potential to significantly harm the environment outside the 50 states, territories, and possessions of the United States when the proposed action will be conducted in or on:

(A) Marine waters seaward of the US territorial sea (beyond 12 NM), including the EEZs and territorial sea of foreign countries (including internal waters, ports, and seas) per the *Maritime Claims Reference Manual*, DOD 2005.1-M (January 1997).

(B) Within the lands of foreign nations.

(3) Actions Involving Both NEPA and EO 12114. Where the environmental effects of a proposed Navy action would occur both inside of the US territorial sea and in one or more other locations outside the territorial sea, analyses of environmental effects may be combined into a single document that meets the substantive and procedural requirements of both EO 12114 and NEPA. The impacts that would occur both within and outside the

US territorial sea must be contained in separately identified subsections of the document. Figure 2 also provides guidance on the application of both NEPA and EO 12114.



j. Marine Mammal Protection Act/Endangered Species Act Consultations/Analyses. The following requirements pertain to all Navy organizations and commands conducting activities in the marine environment involving research, development, testing of weapons and other systems tests and evaluations, training, and operations:

(1) Analyses that demonstrate the probability of "takes" under ESA and MMPA in the marine environment must be coordinated in advance with CNO (N45).

(2) The action proponent cannot undertake public, tribal government, or state or federal regulatory agency involvement without clearance from CNO (N45).

(3) Consultation under section 7 of the Endangered Species Act (ESA) or permitting under the Marine Mammal Protection Act (MMPA) must be conducted in accordance with OPNAVINST 5090.1B, Chapter 22 and attachment (M).

k. Regulatory/Statutory Conclusions in Environmental Planning Documents. Regulatory/statutory conclusions must be included, as applicable, in all environmental planning documents in the appropriate resource section. Any regulatory conclusions in an EA/OEA or EIS/OEIS must reflect applicable regulatory/statutory language and must be supported by appropriate analysis. Some examples are shown in Table 1 below.

<p align="center">Table 1 Example Conclusions Reflecting Regulatory/Statutory Language</p>	
Environmental Law/Executive Order	Examples
NEPA	There would be no significant impact on geology and soils.
EO 12114	Therefore, there would be no significant harm to marine sediments from implementing the proposed action.
Marine Mammal Protection Act	<p><i>Example 1:</i></p> <p>The Navy has determined that there would be no reasonably foreseeable "takes" of marine mammals as defined by the marine Mammal Protection Act.</p> <p><i>Example 2:</i></p> <p>The Navy has determined that it is reasonably foreseeable that there would be "takes" of marine mammals as defined by the marine Mammal Protection Act requiring the Navy to obtain a letter of authorization from NOAA Fisheries.</p>
Endangered Species Act	<p><i>Example 1:</i></p> <p>The proposed action would have no effect on threatened or endangered species.</p> <p><i>Example 2:</i></p> <p>The proposed action may affect, but is not likely to adversely affect threatened or endangered species.</p>
Prime Farmlands	Consequently, the amount of prime farmland that would be removed to accommodate the proposed action would not be a significant farmland conversion impact based on site assessment criteria in USDA Form AD-1006.

1. Environmental Planning Checklist. The goal of the environmental planning process is to enable the Navy to make quality decisions that consider and respond to mission needs while meeting the procedural requirements of NEPA and EO 12114. This goal can only be achieved when the process is timely and documents are complete, of high quality, and contain accurate and objective information. In that context, attachment (N) has been developed for use as a tool to aid Navy environmental planners in preparing and reviewing Navy environmental planning documents, principally those prepared pursuant to NEPA. Those items that apply only to EISs are marked with an asterisk. This checklist may also be referred to when the environmental document being prepared is an OEA or OEIS in accordance with EO 12114. However, the user must recognize that EO 12114 analyses only address the physical and natural environment (OPNAVINST5090.1B, Appendix E, Definitions).

m. Records of Decision for EISs. Attachment (O) provides policy for preparing a Record of Decision for an EIS.

n. Training for Environmental Planning. Individual commands are responsible for ensuring that Navy environmental planners within their command obtain initial and refresher environmental training. The purpose of this training is to develop and maintain individual expertise and proficiency. At a minimum, all Navy environmental planners are required to obtain training in the following CECOS environmental courses, to the extent class schedules permit:

(1) "Basic Environmental Law," within 1 year of assignment.

(2) "Application of the Navy NEPA Process," within 1 year of assignment.

(3) "Advanced Environmental Law (Strategic Environmental Planning)," within 2 years of assignment.



THE UNDER SECRETARY OF THE NAVY
WASHINGTON, D.C. 20350-1000

28 December 2000

MEMORANDUM FOR THE CHIEF OF NAVAL OPERATIONS
COMMANDANT OF MARINE CORPS

Subj: COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS IN THE CONDUCT
OF NAVAL EXERCISES OR TRAINING AT SEA

Ref: (a) OPNAVINST 5090.1B
(b) MCO 5090.2a
(c) NWP 4-11
(d) Navy Regulations, Article 0832
(e) OPNAVINST 3100.5E
(f) DoD 2005.1-M, Maritime Claims Reference Manual

Encl: (1) Supplemental Guidance for Compliance with
Environmental Requirements at Sea
(2) Environmental Compliance Decision Tree for Major
Exercise and Training Operations At Sea

1. Purpose and scope. This memorandum clarifies Department of the Navy (DON) policy for continued compliance with certain environmental requirements. The policy applies to the conduct of exercises, including United States (U.S.) joint and combined exercises, and training at sea. For purposes of this policy, exercises and training do not include combat operations, operations in direct support of combat, or other activities conducted primarily for purposes other than training. This memorandum is in amplification of references (a) through (e). These requirements include:

a. Preparation of environmental planning documents, including those required by the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA), and Executive Order (E.O.) 12114, "Environmental Effects Abroad of Major Federal Actions";

b. Initiating consultations with regulatory agencies pursuant to the Endangered Species Act (ESA) for exercises and training conducted at sea;

c. Application to regulatory agencies for an incidental take statement under the ESA or similar permission under the Marine Mammal Protection Act (MMPA).

Although these are not the only environmental requirements that may be applicable to exercises or training conducted at sea, they pose the greatest risk of disruption from litigation or enforcement actions. Failure to comply with these legal requirements can be used by regulators or third parties, no matter what their motivation, to delay, halt, or alter exercises or training and could create criminal liability for commanders. This amplification of the guidance found in references (a) through (e) is being issued to ensure efficient and consistent compliance with these requirements in circumstances within the special competence of the DON and to preserve the flexibility necessary for the Navy and Marine Corps to train and exercise at sea.¹ This policy does not affect command responsibility pursuant to references (a) and (b) for activities that occur landward of the high water mark.

2. Background. The demands and responsibilities placed upon the Navy and Marine Corps require fully trained forces ready for deployment on short notice. Live-fire exercises with surface combatants, submarines, and aircraft, as well as extensive amphibious operations, mine warfare, and sophisticated special operations, enable the Navy and Marine Corps team to train the way it will fight--and win--our future conflicts. At the same time, the DON is committed to compliance with environmental requirements in the conduct of naval exercises or training at sea. National defense and environmental protection are not mutually exclusive. Environmental compliance enhances access to areas needed for exercises and training and reduces the risk that exercises and training will be disrupted by litigation or enforcement actions or will be subjected to additional regulation.

3. Policy. In conducting exercises and training at sea, the Navy and Marine Corps shall comply with applicable statutes, regulations, and executive orders and will strive to protect the environment, prevent pollution, and protect natural, historic, and cultural resources. While environmental compliance is a command responsibility and applicable throughout the chain of command, it is DON policy to comply with environmental requirements in a manner that is consistent and efficient and

¹ "At sea" for the purposes of this policy means the area from the U.S. high water mark seaward to the recognized Exclusive Economic Zones (EEZs) or fishing zones as set out in reference (f). Nothing in this policy, however, is meant to expand the area where any particular legal requirement applies. "At-sea" also includes the airspace above this area.

minimizes administrative burdens on commanders of operating units. The following specific policies apply for compliance with environmental requirements for exercises (including U.S. joint and combined exercises) and training at sea:

a. Ranges and Operating Areas (OPAREAS). In accordance with references (a) through (e) as implemented by enclosures (1) and (2), fleet commanders in chief, with support from Navy region and numbered fleet commanders, shall develop a programmatic approach to environmental compliance for ranges and OPAREAS within their respective areas of responsibility.² Fleet commanders and SYSCOM commanders shall coordinate development of a programmatic approach to environmental compliance for research, development, training, and evaluation ranges to the extent they are used for fleet training. For at-sea Marine Corps ranges and OPAREAS, commanding generals of Marine Expeditionary Forces with support from installation Commanders and ground, aircraft, and service support commanders shall develop a programmatic approach to environmental compliance within their respective areas of responsibility. The foregoing shall be applicable to exercises and training at sea that are regularly scheduled within OPAREAS or ranges used for naval gunnery, bombing, amphibious landings, missile or torpedo training or other similar training. Priority shall be given to compliance efforts for activities that, because of their frequency, location, nature of the affected environment (e.g., near a marine protected area such as a marine sanctuary or a location where protected species are likely to be present), and/or characteristics (e.g., use of those ordnance items or sensors with the potential to impact the environment over a wide area), present the greatest possibility of significant environmental effects. Cognizant commanders shall promulgate a description of activities and any associated standard operating

² "Programmatic approach" refers to a comprehensive analysis of the environmental impacts of a class of undertakings repetitive in nature or of similar effect and recurring within the same geographical area, so as to avoid or mitigate adverse effects to the extent practicable consistent with the accomplishment of the military training and exercise activities under review. A programmatic approach can include the preparation of a baseline document, such as a conservation plan or biological assessment; or by contrast, it can include the preparation of tiered NEPA documents, such as a programmatic environmental impact statement with supplemental environmental analyses. The Fleet CINCs and Marine Corps CGs charged with developing a programmatic approach have the discretion to determine the specific methodologies to be pursued under the circumstances, subject to the coordination and approval procedures established elsewhere in this policy document.

procedures (SOPs) for which compliance is completed. Thereafter, other commands may conduct these activities in accordance with applicable SOPs within the operating areas without further environmental planning or consultation. Cognizant commanders shall periodically review and update approved activities and SOPs as appropriate.

b. Major Training Exercises. Commanders or officers in charge of major exercises (OCE) shall ensure and document³ compliance with environmental requirements applicable to the full range of activities proposed for the exercise.

(1) For the purposes of this guidance, a "major exercise" is a maneuver or simulated wartime operation involving planning, preparation, and execution that:

(A) Is carried out pursuant to an operation order or similar tasking directive primarily designed for the purpose of training; and

(B) Has substantial potential to cause a significant impact on the quality of the environment because of the number of participating units, the nature of the training activities, and the location of the exercises.

Major exercises include JTFEX, FLEETEX, RIMPAC, Kernel Blitz and exercises of similar scope and intensity as designated by the Echelon II commander or his delegate. They may be a combined, joint, or single-service exercise, depending upon participating organizations. "Major exercise" does not include unit-level training or multi-unit training that is not conducted under a dedicated training operation order.

(2) Those activities occurring within a range or regional operating area that are already documented pursuant to paragraph 3.a., above, require no further documentation other than to incorporate the environmental SOPs into the exercise plan, usually Annex L of the operational plan. Compliance efforts will give priority to those exercises that include activities that, because of their frequency, location, nature of

³ Documenting compliance shall be in accordance with references (a) through (e) and this policy document. It can mean conducting an environmental analysis for activities not previously analyzed and documented or it can mean incorporating by reference the analyses and mitigation measures established previously for like exercises and training events.

the affected environment (e.g., near a marine protected area such as a marine sanctuary or a location where protected species are likely to be present), and characteristics (e.g., use of those ordnance items or sensors with the potential to impact the environment over a wide area), present the greatest possibility of significant environmental effects. Any mitigation measures required to complete environmental analysis or consultation shall be incorporated into the operation order or similar tasking document covering the exercise.

(3) Major training exercises may incidentally involve activities conducted on behalf of systems commands or acquisition proponents. In such circumstances, the system command or acquisition proponent shall ensure that the environmental compliance and mitigation measures supporting the activity are in accord with the environmental compliance and mitigation measures implemented by the commander in charge of the major exercise.

(4) For exercises that are repeatedly conducted without significant change in activities or location, compliance should emphasize a programmatic approach.

(5) The OCE for a combined exercise shall provide participating foreign units with a description of the measures to protect the environment required of similar U.S. units as early as reasonable in the exercise planning process and should encourage them to comply.

c. Routine Training and Exercises. For routine training and exercises at sea not covered by subparagraphs a. and b. above, commanders shall ensure compliance with environmental requirements in accordance with references (a) through (e) and this policy, including the supplemental guidance provided in enclosure (1).

4. All Navy domestic and overseas environmental assessments for exercises and training shall be forwarded up the chain of command to a designated flag-level official at the Echelon II commander for approval. This change in approval authority shall be incorporated into the next change to reference (a). Copies of the assessments will be provided by the Echelon II command to OPNAV (N4 and N3N5). All Marine Corps domestic environmental assessments for exercises and training shall continue to be initiated, reviewed, coordinated and reported by the Commandant

of the Marine Corps, a commanding general, commanding officer, or other designee per the provisions of Section 12104 of reference (b). All Marine Corps overseas environmental assessments for exercises and training shall be initiated, reviewed, coordinated and reported per appendix Q of reference (b) and forwarded up the chain of command to a designated general officer at the Echelon II commander for approval. Nothing in this memorandum alters provisions of references (a) and (b) that require elevation of decisions under specific circumstances; e.g., effects of national importance.

5. Implementation

As soon as practical, fleet commanders in chief will develop plans and budget submissions to implement this policy, prioritizing implementation in accordance with paragraph 3 above. Activities historically conducted within at-sea operating areas may continue during implementation of this policy. In accordance with reference (d), commanders should resolve any non-compliance issues and report discrepancies to the immediate superior in their chain of command.

A handwritten signature in black ink, appearing to read 'R. B. Pirie, Jr.', with a stylized, cursive script.

Robert B. Pirie, Jr.

Supplemental Guidance for Compliance
with Environmental Requirements at Sea

1. Action thresholds and frequently occurring issues.

References (a) - (c) provide general guidance on environmental compliance. The following specific policies deal with particular issues that arise in complying with environmental requirements for exercises and training at sea:

a. NEPA

(1) NEPA requires that, before making a final decision to proceed, the DON consider the environmental consequences of a proposed major Federal action with the potential to significantly affect the environment of the U.S. The DON's activities include actions that are carried out as they were before NEPA was enacted, new actions, and modified actions. Activities at sea may occur within, near, or well beyond the territorial sea of the U.S. In addition to references (a) - (c) the DON will comply with the following guidance.

(2) Actions that reasonably could produce significant effects on the environment within the U.S., including its territory or territorial sea, must be documented in accordance with NEPA even if the actions themselves occur outside the U.S. The territorial sea of the U.S. for domestic law purposes is currently three nautical miles (NM). As a matter of policy, however, the DON will comply with NEPA for proposed actions that reasonably could produce significant effects within 12 NM of the U.S.

(3) Continuing actions. A continuing or ongoing action is one that either: (a) began before January 1970 and that has continued in substantially the same manner and environment; or (b) began after January 1970 and for which the requisite environmental analysis under NEPA or E.O. 12114 has been completed and that has continued in substantially the same manner and environment. Action proponents do not have to conduct any additional analysis under NEPA or E.O. 12114 for continuing actions unless environmental degradation is occurring or is likely to occur because of a continuing action, or there have been substantial changes in a continuing action that have the potential for significant environmental impacts.

b. E.O. 12114: When undertaking an action that has the potential to significantly harm the environment outside U.S. territorial waters, the command proposing the action must

document environmental considerations per those sections of references (a) through (c) that implement E.O. 12114. Factors to consider in determining whether an action reaches the threshold requiring documentation include unique characteristics of the geographical area, intensity and scope of the action, whether effects are direct or indirect, degree of scientific controversy, and the potential for violating environmental laws.

c. CZMA: A State's coastal zone extends seaward 3 NM, except for Texas and Florida's Gulf coast where the coastal zone extends seaward 9 NM. If an action affects any land or water use or natural resource of the coastal zone of a state with a Federally approved coastal zone program, then the action must be consistent to the maximum extent practicable with the enforceable policies of the state program. Both direct and indirect effects must be considered, and it is not required that the effects be adverse. Compliance with the CZMA is normally incorporated into the documentation and procedures used to comply with NEPA and E.O. 12114.

d. ESA: A command or activity is responsible for determining whether its proposed actions "may affect" a protected species under the ESA. If so, then it must consult with the relevant regulatory agency, either National Marine Fisheries Service (NMFS) or U.S. Fish and Wildlife Service (FWS). The threshold for consultation is crossed if it is reasonably foreseeable that the action may affect a protected species. The command or activity may enter into "informal" consultation to determine if there are adverse effects that cannot be mitigated. If it is reasonably foreseeable that an action is likely to adversely affect a protected species, then the Navy or Marine Corps must initiate "formal" consultation. An action is not likely to "adversely affect" if no "takes" are expected to occur or "takes" are extremely unlikely. "Takes" include actions that harass, harm, or kill. Harm refers to an act that actually kills or injures the protected species. Harass means an act that significantly disrupts essential behavioral patterns, such as breeding, feeding or sheltering.

e. MMPA: There is no consultation requirement under the MMPA. A command proposing an action is responsible for determining if it is reasonably foreseeable that its actions will "take" marine mammals. A command should make this determination early in the planning process, because compliance with the MMPA can take significant time. If "takes" are reasonably foreseeable, the command must seek authorization from the relevant regulatory agency (normally NMFS for at sea

activities, but FWS has responsibility for some marine mammals). The MMPA prohibits actions that harass, harm or kill a marine mammal, whether such actions are negligent or intentional. Unlike the ESA, the MMPA further distinguishes types of harassment. "Level A" includes harassment that has the potential to injure. "Level B" harassment includes actions that cause a sustained, biologically significant disruption to critical behavioral patterns, such as breeding, feeding, sheltering or migrating, so that there is an impact on the species or stock. If an action will result only in Level B harassment, then the command must seek an Incidental Harassment Authorization (IHA) or implement mitigation measures so that "takes" are no longer reasonably foreseeable. Obtaining an IHA requires up to 135 days, but it is good for only one year. If it is reasonably foreseeable that the command's actions will cause injury or death, then the command must seek a Letter of Authorization (LOA), or implement mitigation measures so that "takes" are no longer reasonably foreseeable. An LOA can be approved only if it will result in no more than a negligible impact on the species population. It covers 5 years but can take a year or more to process. Commands preparing programmatic documentation in accordance with paragraph 3(a) of the basic memorandum should consider applying for an LOA.

2. Routine Training and Exercises

a. Routine training and exercises at sea generally:

(1) Are associated with transits, maneuvering, safety and engineering drills, replenishments, flight operations, and shipboard or airborne gunnery, missile, or torpedo firings;

(2) are conducted as unit operating schedules permit;

(3) are not repeated in the same vicinity;

(4) utilize available sensors and assets within normal operating parameters;

(5) ordinarily have minor, localized, and transient effects on the environment; and,

(6) do not cross the action thresholds described in paragraph 1.

b. A commander may proceed with an activity he or she has determined is a routine training or exercise activity, unless

there are circumstances or information that indicate that the activity may cross an action threshold described in paragraph 1. When an otherwise routine training or exercise activity may cross an action threshold in paragraph 1, even when employing available mitigation measures, sensors and assets, the commander shall not proceed with the activity absent further environmental analysis. For example, such circumstances could include recent or frequent sightings of protected species in the vicinity of the proposed training or exercise.

c. The Chief of Naval Operations and the Commandant of the Marine Corps shall:

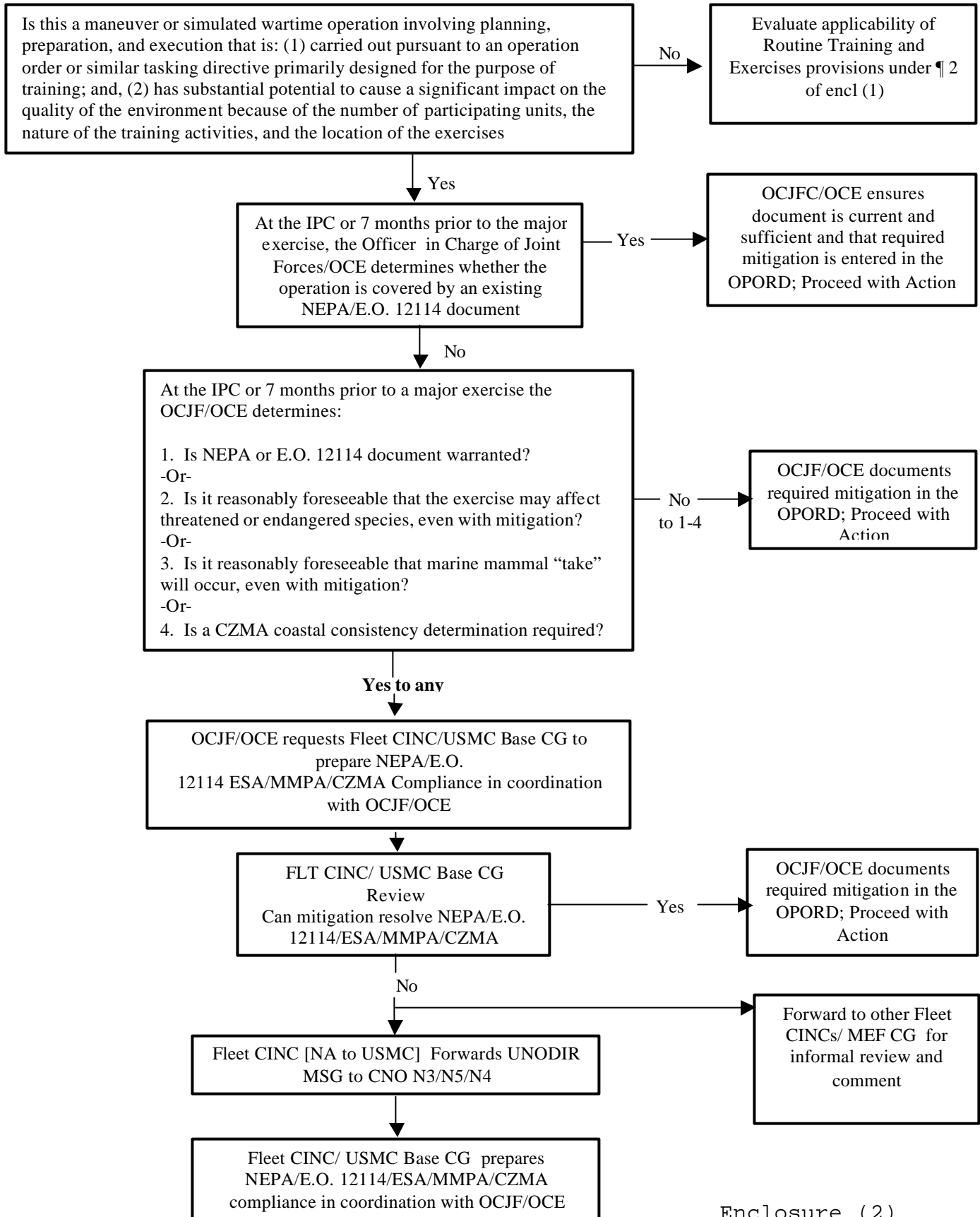
(1) Develop guidelines that assist the operational commander in recognizing circumstances or information that trigger the need for a determination concerning whether a routine training evolution may cross an action threshold in paragraph 1;

(2) Provide the operating forces of the Navy with information on the distribution of marine mammals and listed species within designated ranges and OPAREAs; and,

(3) Develop and direct implementation of any precautions, mitigation measures, or special considerations that must be taken to minimize potential impacts on marine mammals or listed species during routine training and exercises that are not within existing ranges or OPAREAS.

d. In addition to any precautions, mitigation measures, or special considerations promulgated under paragraph 2.c(3) above, the fleet commander or USMC base commanding general, or their delegates, shall develop and direct implementation of any precautions, mitigation measures, or special considerations that must be taken to minimize potential impacts on marine mammals or listed species during routine training and exercises that are within ranges and OPAREAS.

ENVIRONMENTAL COMPLIANCE DECISION TREE FOR MAJOR EXERCISES & TRAINING OPERATIONS AT SEA



Enclosure (2)

ATTACHMENT (A)



DEPARTMENT OF THE NAVY
OFFICE OF NAVAL RESEARCH
800 NORTH QUINCY STREET
ARLINGTON, VA 22217-5660

IN REPLY REFER TO
5000
Ser321/99/040
1 October 1999

MEMORANDUM FOR DISTRIBUTION

From: Chief of Naval Research

Subj: OFFICE OF NAVAL RESEARCH INTERIM ENVIRONMENTAL COMPLIANCE
IMPLEMENTATION FOR ONR SPONSORED UNDERWATER SOUND PROJECTS

Ref: (a) National Environmental Policy Act (NEPA)
(b) Executive Order 12114 (Environmental Effects Abroad of Major Federal Actions)
(c) OPNAVINST 5090.1B (Environmental and Natural Resources Program Manual)

Encl: (1) Table for NEPA Documentation of Underwater Sound Projects
(2) Table for Executive Order 12114 Documentation of Underwater Sound Projects

1. Background. The Office of Naval Research (ONR) understands the need to foster environmental responsibility in the execution of its funded programs whether execution takes place inside or outside of Government. ONR's National leadership position in underwater acoustics makes it particularly important that it take a lead in articulating review procedures that ensure responsible execution of underwater acoustics projects, consistent with reference (a) and (b). Therefore, on an interim basis, environmental compliance documentation preparation, processing, and review shall be completed prior to initiation of field underwater acoustics projects, in accordance with reference (c).

2. The ONR program officer funding a field underwater acoustics project will be designated the "action proponent" responsible for compliance with the processes outlined in the enclosures hereto and therefore ensuring procedures consistent with reference (c). When the ONR program officer is the "action proponent", he/she will be responsible for following the guidelines in the appropriate enclosure. When an ONR program is being executed by another command, the ONR program officer must get written acknowledgment from the executing manager that he/she will follow references (a) and (b).

3. ONR funded underwater acoustics projects shall comply with reference (a) for those projects being conducted in U.S. territorial waters. In these cases the action proponent will follow the documentation process provided in enclosure (1). Likewise, ONR shall comply with reference (b) when sponsoring projects in the global commons (i.e., outside of U.S. territorial waters and territorial waters of another country) or when sponsoring projects in the territorial waters of another country. In this case, action proponents will be guided by enclosure (2).

4. Enclosures are provided as process guidance and are not intended to address all requirements. Coordination by ONR personnel with ONR's Office of Counsel is recommended when considering requirements and identifying appropriate documentation, and is required prior to formal submission or publication of environmental compliance documentation to external activities, or publication of any notices.

5. The Naval Research Laboratory and the International Field Office of ONR shall ensure compliance with the procedures provided herein and with references (a) and (b).

ATTACHMENT (B)

6. Should action proponents or their superiors in the chain of command have questions, please contact Dr. Ellen Livingston at 703-696-4203.



PAUL G. GAFFNEY, II
Rear Admiral, U.S. Navy

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ONR 00CC

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Copy to: CNO N45

ONR INTERIM PROCESS FOR NEPA DOCUMENTATION OF UNDERWATER SOUND PROJECTS (CONSISTENT WITH OPNAVINST 5090.1B)			
NEPA DOCUMENT IN OPNAVINST 5090.1B (Section 3)	PREPARED BY	REVIEW, ENDORSEMENT, OR INFORMATION	APPROVAL
Record of Categorical Exclusions (Section 2-4.1)	ONR Action Proponent or designee	National Marine Fisheries Service (NMFS) ¹ confer as required, (CNO (N45) Info copy)	ONR Action Proponent approve (signature required)
Environmental Assessment (Section 2-4.3)	ONR Action Proponent or designee	Notify and coordinate with CNO(N45) and Regional Environmental Coordinator (REC) ² ; CNO(N45) review; NMFS ¹ confer as required	ONR Department Head approve (Note: result is either a FONSI or EIS)
Finding of No Significant Impact (FONSI) (Section 2-4.3.5)	ONR Action Proponent or designee/ CNO(N45)	CNO(N45)	CNO (N45) approve, (ONR publish as required)
Environmental Impact Statement (EIS), including Notice of Intent (NOI), Draft Environmental Impact Statement (DEIS), and Final Environmental Impact Statement (FEIS) (Sections 2.4.4)	ONR Action Proponent or designee	Notify and coordinate with CNO(N45) and REC ² ; ONR Department Head endorse; CNO (N45) endorse; ASN(I&E) endorse (submit to ASN(I&E) via CNO(N45))	ASN (RD&A) approve
Record Of Decision (Section 2-4.4.11)	ONR Action Proponent or designee/ CNO(N45)	CNO(N45) endorse; ASN (I&E) endorse (submit to ASN(I&E) via CNO(N45))	ASN (RD&A) approve

¹ Specific environmental laws may require participation by certain permitting activities and other agencies. Coordinate with CNO(N45) prior to discussions when proposed mitigation measures may affect fleet operations.

² EA may require REC concur. DEIS/FEIS may require REC endorse.

ONR INTERIM PROCESS FOR E.O.12114 DOCUMENTATION OF UNDERWATER SOUND PROJECTS (CONSISTENT WITH OPNAVINST 5090.1B)			
E.O. 12114 DOCUMENTATION (OPNAVINST 5090.1B) (Section 4)	PREPARED BY	REVIEW, ENDORSEMENT, OR INFORMATION	APPROVAL
Record of Negative Decision (based on Appendix E, Section 6.2 or 6.6)	ONR Action Proponent or designee	National Marine Fisheries Service (NMFS) ¹ confer as required, (CNO(N45) Info copy)	ONR Department Head approve (signature required)
Overseas Environmental Assessment (Appendix E, Section 7.2)	ONR Action Proponent or designee	Notify and coordinate with CNO(N45); NMFS ¹ confer as required; ONR Department Head endorse	CNO(N45) or ASN(I&E) approve (submit to CNO(N45))
Overseas Environmental Impact Statement (Appendix E, Section 7.3)	ONR Action Proponent or designee	Notify and coordinate with CNO(N45) and ASN(I&E); NMFS ¹ confer as required; ONR Department Head endorse; CNO (N45) endorse; ASN(I&E) endorse	ASN (RD&A) approve
Environmental Review (ER) (Appendix E, Section 8.2)	ONR Action Proponent or designee	Notify and coordinate with CNO(N45); NMFS ¹ confer as required; ONR Department Head endorse	CNO (N45) or ASN (I&E) approve (submit to CNO(N45))
Environmental Study (ES) (Appendix E, Section 8.3)	ONR Action Proponent or designee	Coordinate with CNO(N45), ASN(I&E), Department of State (DOS), and OSD/ISA; ONR Department Head endorse; CNO(N45) endorse; ASN (I&E) endorse (submit to ASN(I&E) via CNO(N45))	ASN(RD&A), OSD/ISA, and DOS approve

¹ Specific environmental laws may require participation by certain permitting activities and other agencies. Coordinate with CNO(N45) prior to discussions when proposed mitigation measures may affect fleet operations.



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, DC 20350-1000

SECNAVINST 5090.6A
ASN (I&E)
April 26, 2004

SECNAV INSTRUCTION 5090.6A

From: Secretary of the Navy
To: All Ships and Stations

Subj: ENVIRONMENTAL PLANNING FOR DEPARTMENT OF THE NAVY ACTIONS

Ref: (a) DOD Instruction 4715.9 of 3 May 96, Environmental Planning and Analysis
(b) DOD Directive 6050.7 of 31 Mar 79, Environmental Effects Abroad of Major Department of Defense Actions
(c) SECNAV Instruction 5430.104 of 7 Aug 95, Charter for the Position and Office of the Assistant Secretary of the Navy (Installations and Environment)
(d) SECNAV Instruction 5000.2B of 6 Dec 96, Implementation of Mandatory Procedures for Major and Non-major Defense Acquisition Programs and Major and Non-major Information Technology Acquisition Programs
(e) Council on Environmental Quality Regulations for Implementing the National Environmental Policy Act of 1969, 40 CFR Parts 1500-1508

Encl: (1) Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy

1. Purpose

a. To revise previously established policy for environmental planning in the Department of the Navy (DON); to provide for a comprehensive program of environmental planning and stewardship consistent with, and in support of, the readiness of the naval forces of the United States; and to supplement references (a) and (b).

b. This instruction has been revised substantially and should be read in its entirety.

2. Cancellation. SECNAVINST 5090.6.

3. Scope. This instruction applies to the DON, including the Office of the Secretary of the Navy, as defined at 10 U.S. Code

26 April 2004

Section 5014 and in Article 0310 of Navy Regulations, and Navy/Marine Corps commands, operating forces, shore

establishments, and reserve components. This instruction addresses all environmental planning for actions, including classified actions, both within the United States and abroad, including effects on the global commons. Enclosure (1) addresses specific policies and responsibilities under the National Environmental Policy Act (NEPA).

4. Definition. For purposes of this instruction, the term environmental planning means any systematic process undertaken to identify, facilitate, and/or ensure compliance with the substantive and procedural requirements of laws, Executive Orders, and regulations of the United States or the several States addressing environmental matters.

5. Policy. It is the DON policy, consistent with its mission and the environmental laws and regulations of the United States and applicable international treaties and agreements, to:

a. Prevent or reduce adverse impacts on the environment through effective environmental planning.

b. Consider environmental factors concurrently with mission effectiveness, cost, and other relevant factors.

c. Commence a systematic examination of the environmental implications of proposed actions at the earliest possible time.

d. Understand and comply with all environmental legal requirements; anticipate and control associated costs; and avoid delays caused by inadequate preparation and planning.

e. Provide environmental training commensurate with the responsibilities of the trainee and consistent with the mission of the DON through courses on environmental planning and by integrating instruction in environmental planning into other courses of training for military members and civilian employees.

f. Encourage effective and practical public participation in environmental planning.

g. Include appropriate consideration of socioeconomic issues in environmental planning matters where the potential for disproportionately high and adverse impacts on minority and low-

income populations exists.

h. Include appropriate provisions for environmental planning in instructions, orders, plans or other guidance.

i. Include the costs of environmental planning in planning, programming and budgeting for the proposed action.

j. Prepare, safeguard, review and disseminate required planning, analysis and environmental documents, if any, for classified actions in accordance with applicable security instructions and requirements.

6. Responsibilities

a. The Assistant Secretary of the Navy (Installations and Environment) (ASN(I&E)) shall:

(1) In accordance with reference (c), act as the principal advisor to the Secretary of the Navy for environmental planning.

(2) Establish policy and issue specific policy guidance for environmental planning matters.

(3) Act as the principal liaison with the Office of the Secretary of Defense, the Council on Environmental Quality, the Environmental Protection Agency and other Federal agencies, Congress, State governments, and the public with respect to significant environmental planning matters.

(4) In accordance with reference (d), advise the Assistant Secretary of the Navy (Research, Development, and Acquisition) (ASN(RD&A)) on environmental issues.

b. ASN(RD&A) shall ensure that DON acquisition programs, science and technology actions, and procurements comply with environmental laws, Executive Orders, regulations and applicable Department of Defense (DoD) and DON environmental planning policies.

c. The General Counsel of the Navy and the Judge Advocate General of the Navy shall:

(1) Ensure that legal advice for compliance with

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environmental planning requirements is available to all action proponents.

(2) Advise the Secretary of the Navy, the Chief of Naval Operations (CNO), and the Commandant of the Marine Corps (CMC) as to the legal requirements that must be met, and the conduct and disposition of all legal matters arising in the context of environmental planning.

(3) Ensure that adequate training is available to DON lawyers to provide action proponents and decision-makers with competent legal advice and counsel on environmental planning matters.

d. CNO and CMC shall:

(1) Implement effective environmental planning throughout their respective Services.

(2) Prepare and issue instructions or orders to implement SECNAVINST 5090.6A and environmental planning policies of the DON. Forward proposed CNO/CMC environmental planning instructions or orders to ASN(I&E) and, when appropriate, ASN(RD&A) for review and comment prior to issuance.

(3) Plan, program and budget for environmental planning requirements at the headquarters' level and ensure that subordinate commands, when appropriate, plan, program and budget for the funding of training, environmental planning requirements, associated studies, and necessary mitigation.

(4) Make decisions on Environmental Assessments (EA) as to whether a Finding of No Significant Impact is appropriate or preparation of an Environmental Impact Statement (EIS) is required.

(5) Bring environmental planning matters that involve controversial issues or which may affect environmental planning policies or their implementation to the attention of ASN(I&E) and, where appropriate, ASN(RD&A) for coordination and determination.

(6) Notify ASN(I&E) and, where appropriate, ASN(RD&A) of any proposed EIS, and of any EA that may involve potentially sensitive public interest issues. EIS notification shall occur prior to commencing NEPA document preparation or receiving any

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public or regulatory agency involvement. EA notification shall be made as soon as it becomes apparent that potentially sensitive public interest issues are involved.

(7) Provide for necessary technical and legal staffing to assist action proponents in carrying out environmental planning responsibilities.

(8) Develop procedures for participation of other Federal agencies, State and local agencies, and private groups and individuals in DON environmental planning documents.

7. Delegation of Authority. ASN(I&E), ASN(RD&A), CNO and CMC may delegate responsibilities assigned in this instruction consistent with reference (d) and enclosure (1).

Gordon R. England

Distribution:
SNDL Parts 1 and 2
MARCORPS PCN 71000000000 and 71000000100

POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL
ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

1. Purpose. To provide for compliance with the provisions of the National Environmental Policy Act (NEPA), 42 U.S. Code Section 4321 et seq., reference (e), and other regulations, laws, Executive Orders and treaties and agreements that direct environmental planning procedures, and to assign responsibilities within the Department of the Navy (DON) for preparation, review, and approval of environmental documents prepared under NEPA.
2. Scope. The policies and responsibilities set out in this enclosure apply to the DON, including the Office of the Secretary of the Navy, and Navy and Marine Corps commands, operating forces, shore establishments, and reserve components. This enclosure addresses environmental planning under NEPA.
3. Definitions. The following definitions apply to those terms used in this instruction:
 - a. Action Proponent. The commander, commanding officer, or civilian director of a unit, activity, or organization who initiates a proposal for action, as defined in section 1508.23 of reference (e), and who has command and control authority over the action once it is authorized. For some actions, the action proponent will also serve as the decision-making authority for that action. In specific circumstances, the action proponent and decision maker may be identified in Navy Regulations, other SECNAV Instructions, operational instructions and orders, acquisition instructions, and other sources which set out authority and responsibility within the DON.
 - b. Environmental Impact Statement (EIS). An environmental document prepared according to the requirements of reference (e) for a major action which will have a significant effect on the quality of the human environment.
 - c. Environmental Assessment (EA). A concise document prepared according to the requirements of reference (e), which briefly provides sufficient evidence and analysis for

Enclosure (1)

determining whether to prepare an EIS. An EA aids compliance with NEPA when no EIS is necessary and facilitates preparation of an EIS when one is necessary.

d. Categorical Exclusion (CATEX). A published category of actions which do not individually or cumulatively have a significant impact on the human environment under normal circumstances, and, therefore, do not require either an environmental assessment or an environmental impact statement.

e. Record of Decision (ROD). An environmental document signed by an appropriate official of the DON. A ROD sets out a concise summary of the final decision and selected measures for mitigation (if any) of adverse environmental impacts of the alternative chosen from those considered in an EIS.

f. Finding of No Significant Impact (FONSI). A document which sets out the reasons why an action not otherwise categorically excluded will not have a significant impact on the human environment, and for which an EIS will not therefore be prepared. A FONSI will include the EA or a summary of it and shall note any other environmental documents related to it. A FONSI may be one result of review of an EA.

4. Policy

a. In addition to the general policies regarding environmental planning set out in the basic instruction, it is the DON policy regarding NEPA, consistent with its mission and the environmental laws and regulations of the United States, to:

(1) Initiate the NEPA processes at the earliest possible time to be an effective decision making tool in the course of identifying a proposed action.

(2) Develop and carefully consider a reasonable range of alternatives for achieving the purpose(s) of proposed actions.

(3) Assign responsibility for preparation of action specific environmental analysis under NEPA to the action proponent. The action proponent should understand the plans, analyses, and environmental documents related to that action.

b. NEPA is intended to ensure that environmental issues are fully considered and incorporated into the Federal decision-making process. Consequently, actions for which the DON has no decision making authority and no discretion in implementing the action, such as those carried out under a non-discretionary mandate from Congress (e.g., congressional direction to transfer Federal property to a particular entity for a particular purpose that leaves DON no discretion in how the transfer will be implemented) or as an operation of law (e.g., reversionary interests in land recorded at the time the property was obtained and that provide no discretion in whether to trigger the reversion or how the reversion will be implemented), require no analysis or documentation under NEPA or its implementing regulations.

5. NEPA Documentation

a. An EIS must be prepared for proposed major Federal actions that clearly will have significant impacts on the human environment. The agency decision in the case of an EIS is reflected in a ROD.

b. Where a proposed major Federal action has the potential for significantly affecting the human environment, but it is not clear whether the impacts of that particular action will in fact be significant, or where the nature of an action precludes use of a CATEX, an EA may be used to assist the agency in determining whether to prepare an EIS. If the agency determination in the case of an EA is that there is no significant impact on the environment, the findings will be reflected in a FONSI. If the EA determines that the proposed action is likely to significantly affect the environment (even after mitigation), then an EIS will be prepared. An EA also may be used where it otherwise will aid compliance with NEPA.

c. A CATEX, as defined and listed in this regulation, may be used to exclude a proposed action from further analysis. Even though a proposed action generally is covered by a listed CATEX, a CATEX will not be used if the proposed action:

- (1) Would adversely affect public health or safety;
- (2) Involves effects on the human environment that are

highly uncertain, involve unique or unknown risks, or which are scientifically controversial;

(3) Establishes precedents or makes decisions in principle for future actions that have the potential for significant impacts;

(4) Threatens a violation of Federal, State, or local environmental laws applicable to the DON; or

(5) Involves an action that, as determined in coordination with the appropriate resource agency, may:

(a) Have an adverse effect on Federally-listed endangered/threatened species or marine mammals;

(b) Have an adverse effect on coral reefs or on Federally-designated wilderness areas, wildlife refuges, marine sanctuaries, or parklands;

(c) Adversely affect the size, function or biological value of wetlands and is not covered by a nation-wide or regional permit;

(d) Have an adverse effect on archaeological resources or resources (including but not limited to ships, aircraft, vessels and equipment) listed or determined eligible for listing on the National Register of Historic Places; or

(e) Result in an uncontrolled or unpermitted release of hazardous substances, or require a conformity determination under the standards of the Clean Air Act General Conformity Rule.

e. Subject to the criteria in paragraph 5c, the following categories of action are excluded from further analysis under NEPA. The CNO and CMC shall determine whether a decision to forego preparation of an EA or EIS on the basis of one or more categorical exclusions must be documented in an administrative record and the format for such record.

f. Categorical Exclusions:

- (1) Routine fiscal and administrative activities, including administration of contracts;
- (2) Routine law and order activities performed by military personnel, military police, or other security personnel, including physical plant protection and security;
- (3) Routine use and operation of existing facilities, laboratories, and equipment;
- (4) Administrative studies, surveys, and data collection;
- (5) Issuance or modification of administrative procedures, regulations, directives, manuals, or policy;
- (6) Military ceremonies;
- (7) Routine procurement of goods and services conducted in accordance with applicable procurement regulations, executive orders, and policies;
- (8) Routine repair and maintenance of buildings, facilities, vessels, aircraft and equipment associated with existing operations and activities (e.g., localized pest management activities, minor erosion control measures, painting, and refitting);
- (9) Training of an administrative or classroom nature;
- (10) Routine personnel actions;
- (11) Routine movement of mobile assets (such as ships and aircraft) for homeport reassignments, for repair/overhaul, or to train/perform as operational groups where no new support facilities are required;
- (12) Routine procurement, management, storage, handling, installation, and disposal of commercial items, where the items are used and handled in accordance with applicable regulations (e.g., consumables, electronic components, computer equipment and pumps);

(13) Routine recreational/welfare activities;

(14) Alteration of and additions to existing buildings, facilities, structures, vessels, aircraft, and equipment to conform or provide conforming use specifically required by new or existing applicable legislation or regulations (e.g., hush houses for aircraft engines, scrubbers for air emissions, improvements to stormwater and sanitary and industrial wastewater collection and treatment systems, and installation of fire fighting equipment);

(15) The modification of existing systems or equipment when the environmental effects will remain substantially the same, and the use is consistent with applicable regulations;

(16) Routine movement, handling and distribution of materials, including hazardous materials/wastes that when moved, handled, or distributed are in accordance with applicable regulations;

(17) New activities conducted at established laboratories and plants (including contractor-operated laboratories and plants) where all airborne emissions, waterborne effluent, external ionizing and non-ionizing radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, State, and local laws and regulations;

(18) Studies, data, and information-gathering that involve no permanent physical change to the environment (e.g., topographic surveys, wetlands mapping, surveys for evaluating environmental damage, and engineering efforts to support environmental analyses);

(19) Temporary placement and use of simulated target fields (e.g., inert mines, simulated mines, or passive hydrophones) in fresh, estuarine, and marine waters for the purpose of non-explosive military training exercises or research, development, test and evaluation;

(20) Installation and operation of passive scientific measurement devices (e.g., antennae, tide gauges, weighted hydrophones, salinity measurement devices, and water quality

measurement devices) where use will not result in changes in operations tempo and is consistent with applicable regulations;

(21) Short term increases in air operations up to 50 percent of the typical operation rate, or increases of 50 operations per day, whichever is greater. Frequent use of this CATEX at an installation requires further analysis to determine there are no cumulative impacts;

(22) Decommissioning, disposal, or transfer of Navy vessels, aircraft, vehicles, and equipment when conducted in accordance with applicable regulations, including those regulations applying to removal of hazardous materials;

(23) Non-routine repair, renovation, and donation or other transfer of structures, vessels, aircraft, vehicles, landscapes or other contributing elements of facilities listed or eligible for listing on the National Register of Historic Places which will result in no adverse effect;

(24) Hosting or participating in public events (e.g., air shows, open houses, Earth Day events, and athletic events) where no permanent changes to existing infrastructure (e.g., road systems, parking and sanitation systems) are required to accommodate all aspects of the event;

(25) Military training conducted on or over nonmilitary land or water areas, where such training is consistent with the type and tempo of existing non-military airspace, land, and water use (e.g., night compass training, forced marches along trails, roads and highways, use of permanently established ranges, use of public waterways, or use of civilian airfields);

(26) Transfer of real property from DON to another military department or to another Federal agency;

(27) Receipt of property from another Federal agency when there is no anticipated or proposed substantial change in land use;

(28) Minor land acquisitions or disposals where anticipated or proposed land use is similar to existing land use and zoning, both in type and intensity;

(29) Disposal of excess easement interests to the underlying fee owner;

(30) Renewals and minor amendments of existing real estate grants for use of government-owned real property where no significant change in land use is anticipated;

(31) Land withdrawal continuances or extensions that merely establish time periods and where there is no significant change in land use;

(32) Renewals and/or initial real estate ingrants and outgrants involving existing facilities and land wherein use does not change significantly (e.g., leasing of Federally-owned or privately-owned housing or office space, and agricultural outleases);

(33) Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and facilities; and similar utility and transportation uses;

(34) New construction that is similar to existing land use and, when completed, the use or operation of which complies with existing regulatory requirements (e.g., a building within a cantonment area with associated discharges/runoff within existing handling capacities);

(35) Demolition, disposal, or improvements involving buildings or structures when done in accordance with applicable regulations, including those regulations applying to removal of asbestos, polychlorinated biphenyls, and other hazardous materials;

(36) Acquisition, installation, and operation of utility (e.g., water, sewer, electrical) and communication systems, (e.g., data processing cable and similar electronic equipment)

which use existing rights of way, easements, distribution systems, and/or facilities;

(37) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment, where the facility or equipment is not used to prevent/control environmental impacts;

(38) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site;

(39) Relocation of personnel into existing Federally-owned or commercially-leased space that does not involve a substantial change affecting the supporting infrastructure (e.g., no increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase);

(40) Pre-lease upland exploration activities for oil, gas or geothermal reserves (e.g., geophysical surveys);

(41) Installation of devices to protect human or animal life (e.g., raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, and fencing and grating to prevent accidental entry to hazardous areas);

(42) Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved;

(43) Temporary closure of public access to DON property in order to protect human or animal life;

(44) Routine testing and evaluation of military equipment (1) on a military reservation or an established range, restricted area, or operating area; (2) similar in type, intensity and setting, including physical location and time of year to other actions for which it has been determined, through NEPA analysis where the DON was a lead or cooperating agency, that there are no significant impacts; and (3) conducted in accordance with all applicable standard operating procedures protective of the environment;

(45) Routine military training associated with transits, maneuvering, safety and engineering drills, replenishments, flight operations, and weapons systems (1) conducted at the unit or minor exercise level; (2) similar in type, intensity and setting, including physical location and time of year to other actions for which it has been determined, through NEPA analysis where the DON was a lead or cooperating agency, that there are no significant impacts; and (3) conducted in accordance with all applicable standard operating procedures protective of the environment.

6. Responsibilities. In addition to the responsibilities and actions set out in the basic instruction regarding environmental planning:

a. The Assistant Secretary of the Navy (Installations and Environment) (ASN(I&E)) shall:

(1) As necessary to ensure effective and consistent environmental planning throughout the DON, direct the preparation of appropriate environmental documents and, with respect to those matters governed by reference (d), advise the Assistant Secretary of the Navy (Research Development and Acquisition (ASN(RD&A))) concerning environmental issues and concerning the appropriate level of NEPA documentation needed in any particular circumstance.

(2) Except for proposed acquisition, science and technology, and procurement actions addressed in paragraph 6(b), review, sign, and approve for publication, as appropriate, EISs prepared under NEPA.

(3) In accordance with reference (e), establish and publish a list of categorical exclusions for the DON.

b. ASN(RD&A) shall ensure that DON acquisition, science and technology, and procurement actions comply with NEPA and, in accordance with reference (d), review, sign, and approve for publication, as appropriate, EISs prepared under NEPA for those proposed actions.

c. CNO and CMC shall:

(1) Ensure that subordinate commands establish procedures for implementing mitigation measures described in NEPA documents.

(2) Provide coordination as required for the preparation of NEPA documents for actions initiated by non-DON/DoD entities, State or local agencies and/or private individuals for which Service involvement may be reasonably foreseen.

7. Delegation of Authority

a. ASN(I&E) may delegate his/her responsibilities under this instruction for review, approval and/or signature of EISs and RODs to appropriate Executive Schedule/Senior Executive Service civilians or flag/general officers. All other responsibilities assigned in this instruction may be delegated as deemed appropriate.

b. ASN(RD&A) delegation of authority for approval and signature of documents under NEPA is contained in reference (d).

c. Previously authorized delegations of authority under OPNAVINST 5090.1B and MCO P5090.2A are continued until revised or withdrawn.

8. Completed Documents. This instruction does not invalidate, alter, or amend any NEPA documents already completed. Where only draft NEPA documents have been completed under previous guidance, final documents shall be completed in accordance with this instruction.



DEPARTMENT OF THE NAVY

COMMANDER
U.S. ATLANTIC FLEET
1562 MITSCHER AVENUE SUITE 250
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5090
Ser N773/365
24 Nov 03

From: Commander, U.S. Fleet Forces Command

Subj: AREA ENVIRONMENTAL COORDINATOR (AEC) GUIDANCE AND REGIONAL
ENVIRONMENTAL COORDINATOR (REC) DESIGNATION

Ref: (a) CNO WASHINGTON DC 261950Z SEP 03
(b) CNO WASHINGTON DC 271955Z MAR 03 (NAVADMIN 072/03)
(c) OPNAVINST 5090.1B of 1 Nov 94

1. Commander, U.S. Fleet Forces Command (COMFLTFORCOM) is responsible for establishing and implementing integrated requirements and policies for manning, equipping, training, and maintaining the operational forces of the U.S. Navy. COMFLTFORCOM is the Executive Agent for CNO for Anti-Terrorism/Force Protection and serves as Naval Component Commander to Commander, U.S. Joint Forces Command, to Commander, U.S. Northern Command, and to Commander, U.S. Strategic Command.

2. CNO recently expanded COMFLTFORCOM's environmental responsibilities to complement COMFLTFORCOM's mission of manning, equipping and training operational forces based in CONUS, reference (a). Specifically, COMFLTFORCOM has been given the lead for all mission/operational environmental issues in CONUS. Additionally, COMFLTFORCOM's Area of Responsibility (AOR) as the AEC has been expanded to include all of CONUS and the sea ranges and OPAREAS that support CONUS-based units. As a result of these changes and the establishment of Commander, Navy Installations (CNI) for shore installation management (SIM) functions, reference (b), this letter revises CONUS Navy REC designations, clarifies the definition of mission/operational environmental issues, and provides guidance on AEC requirements for actions taking place at sea.

3. Navy REC's are appointed by the AEC to serve as the senior naval officer in a local region to coordinate environmental matters and public affairs, reference (c). Effective immediately, the existing CONUS REC designations are revised as follows:

a. EPA Region VI transfers from Commander, Naval Education Training Command (NETC) to Commander, Navy Region, South;

b. EPA Region VII transfers from Commander, Naval Reserve Force (COMNAVRESFOR) to Commander, Navy Region, Great Lakes;

c. EPA Region VIII transfers from COMNAVRESFOR to Commander, Navy Region, Northwest.

Subj: AREA ENVIRONMENTAL COORDINATOR (AEC) GUIDANCE AND REGIONAL
ENVIRONMENTAL COORDINATOR (REC) DESIGNATION

All other existing REC designations remain unchanged. Navy REC's also designated as DOD REC's will continue to coordinate issues within their service chain of command, and will now include COMFLTFORCOM in the service coordination.

4. All CONUS mission/operational environmental planning and compliance will be approved by COMFLTFORCOM, or by COMFLTFORCOM delegated approval authorities. Mission/operational issues include at-sea compliance (e.g. acoustic impacts on species protected under the Marine Mammal Protection Act and/or Endangered Species Act), range documentation and permitting (e.g., Tactical Training Theater Assessment and Planning (TAP)), home-basing decisions, afloat/shipboard environmental compliance, open-ocean Navy On-Scene Coordinator (NOSC), and other similar matters. Additionally, mission/operational environmental issues also include routine installation/shore environmental issues that have mission/operational impacts.

5. In carrying out the AEC function, and in order to ensure consistent application of environmental policy within the COMFLTFORCOM AOR, all environmental planning and compliance for actions taking place at sea (from the high water mark seaward) will be coordinated with the appropriate REC(s) and COMFLTFORCOM. COMFLTFORCOM's AOR encompasses all ranges and OPAREAS serving CONUS-based units and marine waters falling within the U.S. Northern Command AOR.

6. Effective immediately, the CONUS REC's will report to CNO (N45) via COMFLTFORCOM on all mission environmental matters. REC's will report to CNO N45 via CNI on all SIM environmental matters.

7. COMFLTFORCOM's POC for REC matters is Mr. Steve Olson, (N773), (757) 836-5724 (DSN 836) or E-Mail: steven.olson@navy.mil.



T. R. CRABTREE
Director
Fleet Training

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Subj: AREA ENVIRONMENTAL COORDINATOR (AEC) GUIDANCE AND REGIONAL
ENVIRONMENTAL COORDINATOR (REC) DESIGNATION

COMUSNAVEUR (N76)
COMNAVSECGRU (N4F3)
CHBUMED (NEHC-EPWR)
COMNAVSUPSYSCOM (4A2)
DIRSSP (SP20161)
ONI (411)
COMNAVREG MIDLANT (N4, ENV)
COMNAVREG NE (N4, ENV)
COMNAVREG SE JACKSONVILLE (N4, ENV)
COMNAVREG SW SAN DIEGO N4, N465)
COMNAVREG NW SEATTLE (N4, N45)
COMNAVREG PEARLE HARBOR HI (N4, ENV)
COMNAVREG GL
COMNAVREG SOUTH

Copy to:

COMNAVDIST WASHINGTON (N4, ENV)
COMNAVMIANAS GU (N4, N45, N41)
COMNAVFORJAPAN (N4, N45, N41)
COMNAVFORKOREA (N4)
COMFAIRMED (N4, ENV)
NRCC SINGAPORE (N4)
ASU BAHRAIN



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:

5090

Ser NOICE/ **744**

3 MAY 2004

From: Commander, U.S. Pacific Fleet

Subj: REGIONAL ENVIRONMENTAL COORDINATOR (REC) AND
NAVY ON-SCENE COORDINATOR (NOSC) DESIGNATIONS

Ref: (a) CNO WASHINGTON DC 261950Z SEP 03
(b) CNO WASHINGTON DC 271955Z MAR 03 (NAVADMIN
072/03)
(c) COMFLTFORCOM ltr 5090 Ser N773/365 of 24 Nov 03
(d) OPNAVINST 5090.1B, Environmental and Natural
Resources Program Manual
(e) COMPACFLTINST 5450.74C, Mission, Function, Tasks
of Naval Bases Assigned to the U.S. Pacific Fleet
(f) COMPACFLTINST 5090.1B, Pacific Fleet
Environmental Protection Program
(g) COMPACFLTINST 5400.12N, Command, Support and
Coordination of Shore Activities
(h) UNDERSECNAV memo of 28 Dec 00, Environmental
Requirements in the Conduct of Naval Exercise
or Training at Sea "At Sea Policy"

1. Commander, U.S. Pacific Fleet (COMPACFLT) is responsible for establishing and implementing integrated requirements and policies for manning, equipping, training, and maintaining the operational forces of the U.S. Navy, for outside continental U.S. (OCONUS) Pacific area. COMPACFLT serves as Naval Component Commander to Commander, U.S. Pacific Command. COMPACFLT is designated the Area Environmental Coordinator (AEC) for OCONUS in the Pacific area by references (a) and (b).

2. The Chief of Naval Operations (CNO) modified COMPACFLT's environmental responsibility to complement the mission focus on manning, equipping and training operational forces based in OCONUS-Pacific, reference (a). COMPACFLT is assigned lead for all mission/operational environmental issues in OCONUS-Pacific. Commander, Fleet Forces Command (COMFLTFORCOM) is assigned an

ATTACHMENT (E)

Subj: REGIONAL ENVIRONMENTAL COORDINATOR (REC) AND
NAVY ON-SCENE COORDINATOR (NOSC) DESIGNATIONS

expanded role and area of responsibility (AOR) for mission/operational issues in CONUS to include all ranges and OPAREAS serving CONUS-based units and marine waters (from the high water mark seaward) falling within the U.S. Northern Command AOR. As a result of these changes and establishment of Commander, Naval Installations (CNI) for shore installation management (SIM) functions, reference (b), this letter serves to reaffirm OCONUS-Pacific REC and NOSC designations, clarify the definition of mission/operational environmental issues, and provide guidance on AEC requirements for actions taking place at sea in OCONUS-Pacific operational areas (OPAREAS). COMFLTFORCOM provided similar policy applicable to CONUS in reference (c).

3. Navy RECs are appointed by the AEC to serve as the Senior Naval Officer in a local region to coordinate environmental matters and public affairs, reference (d). Accordingly, the existing Navy REC designations are reaffirmed:

a. Commander, Navy Region Hawaii (COMNAVREGHAWAII), Pearl Harbor Hawaii. Responsible for Naval shore activities and actions in the State of Hawaii, Midway Island, Kure Island, the Pacific islands of Wake, Johnston, Palmyra, and Kingman Reef.

b. Commander, U.S. Naval Forces Marianas (COMNAVMARIANAS). Responsible for Naval shore activities and actions for Guam, Commonwealth of Northern Marianas Islands, Federated States of Micronesia, and Republic of Palau.

c. Commander, U.S. Naval Forces Japan (COMNAVFORJAPAN), Yokosuka, Japan. Responsible for Naval shore activities and actions in Japan and Diego Garcia.

d. Commander, U.S. Naval Forces Korea (COMNAVFORKOREA), Seoul, Korea. Responsible for Naval shore activities and actions in Korea, including Chinhae and Pusan, Korea.

COMNAVREG HI and COMNAVMARIANAS will continue to closely coordinate any multi-service environmental mission and compliance issues with Commander, Navy Region Southwest as the designated DoD REC for EPA Region IX.

(Note: REC designations remain unchanged from original designation by COMPACFLT in references (e) and (f))

Subj: REGIONAL ENVIRONMENTAL COORDINATOR (REC) AND
NAVY ON-SCENE COORDINATOR (NOSC) DESIGNATIONS

4. Navy On-Scene Coordinators (NOSCs) are appointed by the AEC to serve as the Senior Naval Officer in a local region to coordinate response to oil and hazardous substance (OHS) spills from shore activities and Naval vessels, reference (d). Navy Regional, Naval Forces and Numbered Fleet Commanders are designated as Navy On-Scene Coordinators (NOSCs). Existing open ocean Fleet NOSC and shoreside NOSC designations are reaffirmed:

a. Open Ocean Fleet NOSCs:

i. Commander, Third Fleet. All waters within COMTHIRDFLT AOR except waters assigned to CONUS west coast shore NOSCs (Commander, Navy Region Southwest and Commander, Naval Region Northwest) and those identified in paragraph 4.b, below.

ii. Commander, Seventh Fleet. All waters within COMSEVENTHFLT AOR except waters assigned to a shoreside NOSC in paragraph 4.b, below.

b. Shoreside NOSCs:

i. Commander, Navy Region Hawaii. Land areas assigned by reference (g) and their coastal waters out to 12 nautical miles (NM).

ii. Commander, U.S. Naval Forces Marianas. Land areas assigned by reference (g) and their coastal waters out to 12 NM.

iii. Commander, U.S. Naval Forces, Japan. Land areas assigned by reference (g) including Diego Garcia and their coastal waters out to 12 NM.

iv. Commander U.S. Naval Forces, Korea. Land areas assigned by reference (g) and their coastal waters out to 12 NM.

(Note: NOSC designations remain unchanged from original designation by COMPACFLT, reference (e) and (f))

5. All OCONUS-Pacific mission/operational environmental planning, policy, and compliance requirements will be approved by COMPACFLT. As directed by reference (a), COMPACFLT has the

Subj: REGIONAL ENVIRONMENTAL COORDINATOR (REC) AND
NAVY ON-SCENE COORDINATOR (NOSC) DESIGNATIONS

lead for mission/operational environmental issues, including At Sea Policy compliance (reference (h)), exercises, range management, documentation and permitting (e.g., Tactical Training Theater Assessment and Planning (TAP) program elements), home-basing decisions, afloat/shipboard environmental compliance, open-ocean fleet NOSC responsibilities, and other similar matters, within the OCONUS-Pacific AOR. Mission/operational environmental issues include routine installation/shore environmental issues that have mission/operational impacts.

6. In carrying out the AEC function, and to ensure consistent application of environmental policy with the COMPACFLT AOR, all environmental planning and compliance actions taking place at sea (from the high water mark seaward) will be coordinated with the appropriate RECs and with COMPACFLT. COMPACFLT's AOR encompasses all ranges and OPAREAS in OCONUS-Pacific falling within the U.S. Pacific Command AOR.

7. COMPACFLT will continue to work closely with COMFLTFORCOM on mission/operational issues associated with CONUS-West Coast, including programming and budgeting. COMFLTFORCOM and COMPACFLT shall ensure adherence with environmental requirements for training and exercises at sea and shall develop a programmatic approach to environmental compliance for all Navy ranges and OPAREAS within their respective AORs.

8. Effective immediately, OCONUS-Pacific RECs will report to CNO (N45) via COMPACFLT on all mission/operational environmental matters. OCONUS-Pacific RECs will report to CNO (N45) via CNI on all SIM environmental matters.

9. The COMPACFLT point of contact (POC) is CDR Mark Deibert (N01CE1) at (808) 474-6391.



G. A. ENGLE
Fleet Civil Engineer

Distribution:
See next page

Subj: REGIONAL ENVIRONMENTAL COORDINATOR (REC) AND
NAVY ON-SCENE COORDINATOR (NOSC) DESIGNATIONS

Distribution:

COMTHIRDFLT (J00J)
COMSEVENTHFLT (J00J)
COMNAVREG HAWAII PEARL HARBOR HI (N00, N4, ENV)
COMNAVMARIANAS GU (N00, N00J, N4, N45, N41)
COMNAVFORJAPAN YOKOSUKA JA (N00, N00J, N4, N45, N41)
COMNAVFORKOREA SEOUL KOR (N00, N4)

Copy to:

CNO WASHINGTON DC (N43, N45, FSA)
USPACOM HONOLULU HI (J44)
COMFLTFORCOM NORFOLK VA (N7)
COMNAVINSTCOM WASHINGTON DC (N00, N00J)
COMLOG WESTPAC (00)
COMSECONDFLT (J00J)
NETC PENSACOLA FL (N441)
ONI WASHINGTON DC (411)
COMSC WASHINGTON DC
COMUSNAVEUR LONDON UK (N76)
COMNAVSEASYS COM WNY DC (SEA 04ER)
COMNAVSAIRSYS COM WASHINGTON DC (AIR-1.1)
COMNAVFAENG COM PATUXENT RIVER MD (ENQ)
COMSPAWARESYS COM SAN DIEGO CA (07-1)
COMNAVSUPSYS COM MECHANICSBURG PA (4A2)
COMNAVSECGRU FORT GEORGE G MEADE MD (N4F3)
COMNAVRESFOR NEW ORLEANS LA (N00E)
BUMED WASHINGTON DC (NEHC-EPWR)
COMFAIRMED NAPLES IT (N4, ENV)
DIRSSP WASHINGTON DC (SP20161)
NRCC SINGAPORE (N4)
NAVSUPPACT BAHRAIN
COMNAVSAIRPAC SAN DIEGO CA
COMNAVSAURFPAC SAN DIEGO CA
COMSUBPAC PEARL HARBOR HI
COMNAVREG MIDLANT NORFOLK VA (N00, N4, ENV)
COMNAVREG NE GROTON CT (N00, N4, ENV)
COMNAVREG SE JACKSONVILLE FL (N00, N4, ENV)
COMNAVREG SW SAN DIEGO CA (N00, N4, N465)
COMNAVREG NW SEATTLE WA (N00, N4, N45)
COMNTC GREAT LAKES (N00, N4)
COMNAV SOUTH CORPUS CHRISTI TX (N00, N4)
COMNAVDIST WASHINGTON DC (N00, N4, ENV)

Review and Processing of Environmental Assessments (EAs)/Overseas EAs (OEs) Requiring CNO (N45) Action

Step	Process Description	Duration (Working Days) ^{1,2}	Responsible Organization
Notification Letter	<p>1.1 Via the chain of command, action proponent submits notification letter of 3-5 pages to CNO (N45).³ Contents should be sufficient to provide an immediate understanding of the proposed action and alternatives to be analyzed.⁴ With respect to actions involving the marine environment, the action proponent cannot undertake public, tribal government, or state or federal regulatory agency involvement without clearance from CNO (N45) (see 3.j of Supplemental Environmental Planning Policy).</p> <p>The notification letter shall include:</p> <ul style="list-style-type: none"> (A) Location(s) of the proposed action (with maps and/or charts). (B) Date of the proposed test, if applicable. (C) Identity of the lead agency(ies) with whom a cooperating agency relationship is being considered. If the action proponent is a non-Navy tenant on a Navy activity or if the action proponent is a Navy activity on non-Navy-owned property or activity, there should be an explanation about how the proposed action will be coordinated and approved (e.g., FONSI is to be signed by both parties). (D) A brief description of the proposed action, purpose and need for the proposed action, and proposed alternatives. With respect to the description of reasonable alternatives: <ul style="list-style-type: none"> (i) For all EAs, alternatives must, at a minimum, include the proposed action, no action, and at least one other reasonable action alternative. If an additional alternative is not practical, an explanation must be provided. (ii) For OEAs where the proposed action will affect the U.S. Exclusive Economic Zone (EEZ) (12-200 nautical miles), the analysis of at least one reasonable alternative besides the proposed action and no action alternative is required, even though the need for reasonable alternatives is not addressed in EO 12114, SECNAVINST 5000.2B, or OPNAVINST 5090.1B. If an additional alternative is not practical, an explanation must be provided. 	To be Determined by Action Proponent	Action Proponent
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO (N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. ALL REGULATORY CONSULTATIONS MUST BE COMPLETED AND DOCUMENTED BEFORE A FINAL DECISION WILL BE MADE ON THE FONSI.</p> <p>3. At the commencement of an EA or OEA, a notification letter must be forwarded to CNO (N45) regardless of whether CNO action is required. Within two weeks of signature, copies of all final EAs and OEAs must be submitted to CNO (N45) on a CD-ROM in Adobe Acrobat 5.0 (.PDF) format (minimum document resolution at 300 dpi)). The CD-ROM should include the final EA/OEA, the signed FONSI for an EA or letter of approval for an OEA, Notice of Availability for the EA, signed legal and technical sufficiency documents, and all endorsement letters. Paper copies must be made available, if requested. Electronic storage limitations currently prohibit electronic transmission of final environmental planning documents. Future process improvements for document submission are underway.</p> <p>4. While not required, action proponents should consider preparing and submitting a Preliminary Description of Proposed Action and Alternatives (DOPAA) with the notification letter submitted to CNO (N45).</p>			

Review and Processing of Environmental Assessments (EAs)/Overseas EAs (OEAs) Requiring CNO (N45) Action

Step	Process Description	Duration (Working Days) ^{1,2}	Responsible Organization
Notification Letter (continued)	<p>(E) A brief explanation of how a reasonable range of alternatives will be generated and evaluated. If screening criteria will be used (e.g., operational and/or location needs), they must be listed. Alternatively, a summary of the basis for identifying reasonable alternatives for analysis may be provided.</p> <p>(F) A brief description of acoustic thresholds/methodology to be used in the analysis of the impacts of Navy-generated sound in the water, if applicable (e.g., intend to use Churchill methodology for explosives).</p> <p>(G) Based on current knowledge, an identification of important or potentially significant environmental issues that will be analyzed in the document (such as wetlands, endangered species, high noise levels, presence of marine mammals).</p> <p>(H) An identification of federal or state agencies or elected officials with whom the action proponent anticipates coordination.</p> <p>(I) Based on current knowledge, an identification of issues of potential controversy or public interest (if public meetings are planned, CNO (N45) must be notified of scheduled dates and locations).</p> <p>(J) Additionally, for those EAs/OEAs requiring CNO (N45) action, a milestone schedule must be included that identifies:</p> <ul style="list-style-type: none"> (i) The anticipated date the document will arrive at CNO (N45) for review and comment; (ii) The target date by which a Finding of No Significant Impact (FONSI) or OEA approval (if required) will be generated; (iii) Higher echelon endorsement (if required); and (iv) Any time-sensitive considerations. <p>If the EA/OEA involves potentially sensitive public interest issues and/or is scientifically controversial regarding environmental effects, the schedule should be flexible enough to allow up to 5 days to schedule briefings if requested by CNO (N45) or SECNAV staff.</p>	To be Determined by Action Proponent	Action Proponent
<ol style="list-style-type: none"> 1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling. 2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO (N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. ALL REGULATORY CONSULTATIONS MUST BE COMPLETED AND DOCUMENTED BEFORE A FINAL DECISION WILL BE MADE ON THE FONSI. 3. At the commencement of an EA or OEA, a notification letter must be forwarded to CNO (N45) regardless of whether CNO action is required. Within two weeks of signature, copies of all final EAs and OEAs must be submitted to CNO (N45) on a CD-ROM in Adobe Acrobat 5.0 (.PDF) format (minimum document resolution at 300 dpi)). The CD-ROM should include the final EA/OEA, the signed FONSI for an EA or letter of approval for an OEA, Notice of Availability for the EA, signed legal and technical sufficiency documents, and all endorsement letters. Paper copies must be made available, if requested. Electronic storage limitations currently prohibit electronic transmission of final environmental planning documents. Future process improvements for document submission are underway. 4. While not required, action proponents should consider preparing and submitting a Preliminary Description of Proposed Action and Alternatives (DOPAA) with the notification letter submitted to CNO (N45). 			

Review and Processing of Environmental Assessments (EAs)/Overseas EAs (OEs) Requiring CNO (N45) Action

Step	Process Description	Duration (Working Days) ^{1,2}	Responsible Organization
Notification Letter (continued)	1.2 Upon satisfactory completion of the notification letter requirements by the action proponent, CNO (N45) administratively processes notification letter.	1 day	CNO (N45)
Submittal of Draft EA/OEA Package	2.1 Via the chain of command, the action proponent submits 5 paper copies of the Draft EA/OEA and 1 CD-ROM electronic copy in WORD to CNO (N45). The Draft EA/OEA Package must contain: (A) Cover letter directing action to be taken by CNO (N45); (B) Proper organizational/chain of command endorsements (in .PDF, minimum 300 dpi); (C) EA/OEA; (D) Draft Finding of No Significant Impact (FONSI) (should be no more than 3 pages); (E) Statement of Technical Review; and (F) Memorandum of Legal Sufficiency.	To be Determined by Action Proponent	Action Proponent
Review of Draft EA/OEA Package	3.1 Upon receipt of a COMPLETE Draft EA/OEA Package from the action proponent, CNO (N45) will commence its review.	20 days	CNO (N45)
	3.2 CNO (N45) transmits coordinated comments to action proponent via the chain of command.	Concurrent with 3.1	CNO (N45)
	3.3 Action proponent incorporates CNO (N45) comments into revised Draft EA/OEA and transmits to CNO (N45) via the chain of command. Subsequent reviews are contingent on the nature and number of changes required and the degree to which the comments are incorporated into the Draft EA/OEA Package. Additional time may be required if coordination with ASN (I&E) is needed. All revised Draft EAs/OEAs must be in paper copy (full copy of the document) with text changes highlighted. In addition, a comment matrix (electronic and paper) listing all comments and how they were responded to must be submitted to CNO (N45) (Comment Response Package). CNO (N45) will commence its review upon receipt of the revised Draft EA/OEA and the Comment Response Package.	To be Determined by Action Proponent	Action Proponent
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO (N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. ALL REGULATORY CONSULTATIONS MUST BE COMPLETED AND DOCUMENTED BEFORE A FINAL DECISION WILL BE MADE ON THE FONSI.</p> <p>3. At the commencement of an EA or OEA, a notification letter must be forwarded to CNO (N45) regardless of whether CNO action is required. Within two weeks of signature, copies of all final EAs and OEAs must be submitted to CNO (N45) on a CD-ROM in Adobe Acrobat 5.0 (.PDF) format (minimum document resolution at 300 dpi)). The CD-ROM should include the final EA/OEA, the signed FONSI for an EA or letter of approval for an OEA, Notice of Availability for the EA, signed legal and technical sufficiency documents, and all endorsement letters. Paper copies must be made available, if requested. Electronic storage limitations currently prohibit electronic transmission of final environmental planning documents. Future process improvements for document submission are underway.</p> <p>4. While not required, action proponents should consider preparing and submitting a Preliminary Description of Proposed Action and Alternatives (DOPAA) with the notification letter submitted to CNO (N45).</p>			

Review and Processing of Environmental Assessments (EAs)/Overseas EAs (OEs) Requiring CNO (N45) Action

Step	Process Description	Duration (Working Days) ^{1,2}	Responsible Organization
Final EA/OEA	4.1 Action proponent submits 5 paper copies of Final EA/OEA and 1 CD-ROM electronic copy in WORD to CNO (N45).	To be Determined by Action Proponent	Action Proponent
	4.2 Upon receipt of the Final EA/OEA, CNO (N45) will commence its review, after which coordinated comments will be transmitted to the action proponent via the chain of command.	10 days	CNO (N45)
	4.3 If comments are generated by CNO (N45), action proponent will incorporate these comments into revised Final EA/OEA and transmit to CNO (N45). Subsequent reviews will be contingent upon the nature of the changes required, the number of changes to the document, and the degree to which the comments are incorporated in the EA/OEA. Additional time may be required if coordination with ASN(I&E) is needed. All revisions to the Final EA/OEA must be in paper copy (full copy of the document) with the text changes highlighted. In addition, a comment matrix (electronic and paper) listing all comments and how they were responded to must be submitted to CNO (N45) (Comment Response Package). CNO (N45) will commence its review upon receipt of the Final EA/OEA and the Comment Response Package.	To be Determined by Action Proponent	Action Proponent
FONSI	5.1 After CNO (N45) staff comments are satisfactorily incorporated into the Final EA/OEA, N456 is briefed.	3 days	CNO (N45)
	5.2 N456 signs FONSI for an EA or a concurrence letter for an OEA.		
	5.3a For an EA, action proponent publishes a notice of availability (NOA) for a FONSI for 3 consecutive days in the “public notices” section of a newspaper with distribution in the area of the proposed action.	3 days (30 days for FONSI published by CNO (N45))	Action proponent/CNO (N45)
	5.3b. For an EA where the proposed action involves: (1) effects of national concern; (2) is an action closely similar to conditions that normally require the preparation of an EIS; or (3) is an action without precedent, the FONSI is published by CNO (N45) in the <i>Federal Register</i> and by the action proponent for 3 consecutive days in the “public notices” section of a newspaper with distribution in the area of the proposed action. The FONSI must be made available to the public for 30 days before it becomes final.		
<div>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</div> <div>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO (N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. ALL REGULATORY CONSULTATIONS MUST BE COMPLETED AND DOCUMENTED BEFORE A FINAL DECISION WILL BE MADE ON THE FONSI.</div> <div>3. At the commencement of an EA or OEA, a notification letter must be forwarded to CNO (N45) regardless of whether CNO action is required. Within two weeks of signature, copies of all final EAs and OEAs must be submitted to CNO (N45) on a CD-ROM in Adobe Acrobat 5.0 (.PDF) format (minimum document resolution at 300 dpi)). The CD-ROM should include the final EA/OEA, the signed FONSI for an EA or letter of approval for an OEA, Notice of Availability for the EA, signed legal and technical sufficiency documents, and all endorsement letters. Paper copies must be made available, if requested. Electronic storage limitations currently prohibit electronic transmission of final environmental planning documents. Future process improvements for document submission are underway.</div> <div>4. While not required, action proponents should consider preparing and submitting a Preliminary Description of Proposed Action and Alternatives (DOPAA) with the notification letter submitted to CNO (N45).</div>			



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

IN REPLY REFER TO

5090
Ser N456/N4U732337
20 April 2004

From: Chief of Naval Operations, Environmental Readiness
Division (N45)
To: Commander, Navy Installations

Subj: SIGNATURE AUTHORITY FOR SHORE INSTALLATION MANAGEMENT
(SIM) FINDINGS OF NO SIGNIFICANT IMPACT (FONSIs)

Ref: (a) CNI ltr 5090 Ser CNI/030 of 21 Jan 04
(b) OPNAVINST 5090.1B, Environmental and Natural
Resources Program Manual
(c) CNO Memo 5090 Ser N456/8U595188 of 9 Mar 98

Encl: (1) Reporting Requirements for Commands Delegated FONSI
Signature Authority

1. Reference (a) requested that Commander Navy Installations (CNI) be provided the authority to sign Findings of No Significant Impact (FONSIs). Certain Echelon II Commands have previously been delegated authority to review and sign FONSIs based upon their demonstration that they have adequate staff to support this responsibility. This letter assigns to CNI signature authority for FONSIs for Shore Installation Management (SIM) related actions. This authority is granted based upon your demonstration that you have sufficient qualified and dedicated environmental staff with your headquarters office to provide final review of environmental planning documents prior to signature. All FONSIs must be signed by a Flag Officer from within CNI headquarters. Please note that this authority cannot be further delegated. We will continue to work with your staff to further explore areas or types of projects that may be suitable for Regional Commander FONSI signature.

2. Enclosure (1) identifies reporting requirements that must be followed by Commands that have been delegated FONSI signature authority. All of the requirements in enclosure (1) will be included in the next revision to reference (b). Failure to comply with these requirements at any time will result the loss of FONSI signature authority.

ATTACHMENT (G)

Subj: SIGNATURE AUTHORITY FOR SHORE INSTALLATION MANAGEMENT
(SIM) FINDINGS OF NO SIGNIFICANT IMPACT (FONSIS)

3. My point of contact is Ms. Karen Foskey, N456C, at
(703) 602-2859 or via email at karen.foskey@navy.mil.


WILLIAM G. MATTHEIS
Acting



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO
5090
Ser N4/949-03
12 Sep 03

MEMORANDUM FOR DISTRIBUTION

Subj: LEGAL REVIEW OF NEPA AND EXECUTIVE ORDER 12114 DOCUMENTS

Ref: (a) 32 CFR 775
(b) OPNAVINST 5090.1B (Series)
(c) CNO N45 ltr 5090 Ser N456/1U595362 dtd 11 May 2001
(Subj: Update to OPNAVINST 5090.1B, Environmental Assessment (EA) Process)
(d) SECNAV memo of 28 Dec 2000 (Subj: Compliance with Environmental Requirements in the conduct of Naval Exercises or Training at Sea)
(e) SECNAVINST 5000.2B(Series)

1. This letter establishes a requirement that a legal memorandum accompany all draft and final Environmental Assessments (EAs), Overseas Environmental Assessments (OEAs), Environmental Impact Statements (EISs) or Overseas Environmental Impact Statements (O/EISs) submitted to CNO (N45) for action, and provides memorandum content guidance. Litigation challenging Navy environmental planning documents has met with some measure of success recently. Implementation of this policy is necessary to reduce litigation risks, and to promote timely review by the chain of command. References (a) through (e) outline responsibilities and requirements for complying with National Environmental Policy Act (NEPA) and Executive Order 12114 within the Navy. Reference (b) will be amended appropriately to reflect this policy.

2. Effective immediately, a legal memorandum will be prepared that documents the legal sufficiency of an EA, OEA, EIS or O/EIS, and identifies those aspects of the document or the proposed action itself that indicate possibility of suit. The scope of addressed issues and depth of discussion in the memorandum should reflect the specific legal concerns raised by the document and all circumstances suggesting possible litigation. At a minimum, the legal memorandum must contain a statement that the EA, OEA, EIS or O/EIS is legally sufficient, memorialize any legal issues that were addressed in the

ATTACHMENT (H)

Subj: LEGAL REVIEW OF NEPA AND EXECUTIVE ORDER 12114 DOCUMENTS

document's drafting, describe how these issues were resolved, and identify all remaining issues that are legally sensitive. All other circumstances or factors suggesting possible litigation must also be identified.

3. Examples of circumstances or factors that might suggest the possibility of litigation include, but are not limited to, the following:

- (a) the proposed action implicates a politically or environmentally sensitive issue (e.g., acoustic effects on marine mammals or endangered species, safety or health concerns relating to unexploded ordinance);

- (b) a party indicates an intention to file a legal challenge;

- (c) a grass roots citizens' group forms to galvanize opposition to the proposed action;

- (d) a regulatory agency with expertise and jurisdiction concerning some aspect of the proposed action expresses disagreement regarding the environmental compliance package developed for the proposed action;

- (e) the proposed action sparks media interest;

- (f) the proposed action generates a high level of Freedom of Information Act (FOIA) activity.

4. All legal memorandums shall be marked "FOR OFFICIAL USE ONLY: ATTORNEY WORK PRODUCT," and shall be either signed or endorsed by a legal advisor for the appropriate major claimant (e.g., Systems Command, Office of Naval Research). The memorandum shall accompany all NEPA/EO 12114 documents.

Subj: LEGAL REVIEW OF NEPA AND EXECUTIVE ORDER 12114 DOCUMENTS

5. My POC for this matter is LCDR Steven Hipfel at commercial:
(703) 602-6843 or DSN: 332-6843.



CHARLES W. MOORE, JR.
Vice Admiral, U.S. Navy
Deputy Chief of Naval Operations
(Fleet Readiness and Logistics)

Distribution:

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DASN (E), (IF)
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COMPACFLT (N46), (N7), (N465)
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ENGFLDACT MW GREAT LAKES IL
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Statement of Technical Review for NEPA/EO 12114 Documents

Name of Document: _____

Date of Document: _____

Review Area (As Appropriate)	Responsible Reviewer (include Telephone and E-Mail address)	Organization/Code	Date	Signature
Action Proponent				
REC Representative				
AEC Representative				
Other Reviews, as appropriate (SYSCOM, FFC, CNI, etc.)				

Technical Review (As Appropriate)				
Review Area (As Appropriate)	Responsible Reviewer (include Telephone and E-Mail address)	Organization/Code	Date	Signature
Geology and soils				
Water resources, which may include: - Water supply - Water quality and sole source aquifers - Floodplains - Wetlands - Wild and scenic rivers				
Terrestrial biology				
Marine biology, which may include: - Marine mammals - Fish and Essential Fish Habitat - Coral reefs				
Marine biology - estimated number of takes under MMPA				
Threatened and endangered species				
Air quality				

Statement of Technical Review for NEPA/EO 12114 Documents

Document Name: _____

Date: _____

Technical Review (As Appropriate)				
Review Area (As Appropriate)	Responsible Reviewer (include Telephone and E-Mail address)	Organization/Code	Date	Signature
Noise, which may include: - Underwater acoustics - Aircraft noise - Weapon discharge noise - Other noise sources				
Airspace				
Cultural resources				
Socioeconomics				
Environmental justice (minority and low income populations and children)				
Land use and coastal zone management Federal consistency				
Transportation				
Hazardous materials/hazardous waste/installation restoration				
Utilities (including electricity, natural gas, water, sewer, solid waste)				
Public health and safety				
Other				

As lead Navy environmental planner, I, _____, certify that the subject experts
Print Name

above have reviewed the subject document and find it technically sufficient in their area of expertise.

 Signature

 Date

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
Submittal of the NOI Package	<p>1.1 Via the chain of command, the action proponent submits 5 paper copies of the Notice of Intent (NOI) Package and 1 CD-ROM copy in WORD to CNO (N45), with all endorsements, and 5 paper copies of the NOI Package and 1 CD-ROM copy in WORD to ASN, as applicable. (For an OEIS, an action proponent is required to prepare and submit a Notification Package that contains elements (A) through (C) below as identified below for an NOI Package for an EIS.)</p> <p>[With respect to actions involving the marine environment, the action proponent cannot undertake public, tribal government, or state or federal regulatory agency involvement without clearance from CNO (N45) (see 3.j of Supplemental Environmental Planning Policy).]</p> <p>The NOI Package must contain:</p> <p>(A) Cover Letter requesting action to be taken by CNO (N45):</p> <ul style="list-style-type: none"> (i) The identity of the action proponent. (ii) The identity of the agency(ies) with which a cooperating agency relationship is being considered. If the action proponent is a non-Navy tenant on a Navy activity or if the action proponent is a Navy activity on non-Navy-owned property or activity, there should be an explanation about how this project will be coordinated and approved. (iii) Summary of projected schedule indicating, as applicable to an EIS or OEIS: <ul style="list-style-type: none"> (a) Anticipated publication of the NOI; (b) Dates for scoping meetings; (c) List of potential consultations/permits; (d) Anticipated date for completion of a Draft EIS/OEIS; (e) Target date for completion of a Final EIS/OEIS, ROD/Letter of Endorsement; and (f) Technical and legal points of contact. <p>(B) Proper organizational/chain of command endorsements in Adobe Acrobat 5.0 (.PDF) (300 dpi minimum document resolution).</p> <p>(C) A preliminary Description of Proposed Action and Alternatives (DOPAA), consisting of:</p> <ul style="list-style-type: none"> (i) The identity of the action proponent; (ii) Anticipated cooperating agency relationship(s); (iii) Summary and scope of the proposed action (with maps and/or charts); (iv) Summary of purpose and need (including mission and background, as appropriate); (v) A brief explanation of how a reasonable range of alternatives will be generated and evaluated. If screening criteria will be used (e.g., operational and/or location needs), they must be listed. Alternatively, a summary of the basis for identifying reasonable alternatives for analysis may be provided; 	To be Determined by Action Proponent	Action proponent
	<ol style="list-style-type: none"> CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action). 		

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
Submittal of the NOI Package (continued)	<ul style="list-style-type: none"> (vi) Proposed alternatives (with maps or tables); (vii) Regulatory considerations (e.g., potential permitting and/or consultations); (viii) Based on current knowledge, a summary of anticipated issues of concern, including Congressional issues; public interest issues; and issues of other interested parties; (ix) Summary of public involvement plan; and (x) Detailed projected schedule (with critical dates identified). <p>(D) For an EIS only, a Draft Notice of Intent (NOI) that includes the following elements:</p> <ul style="list-style-type: none"> (i) Dates and addresses of public scoping meetings; (ii) Point of Contact for further information; (iii) Supplemental information: <ul style="list-style-type: none"> (a) Description of the proposed action (including identification of action proponent and cooperating agency(ies)). (b) Purpose and need for the action. (c) Alternatives to be considered. (c) Extent and duration of action. (e) Impact areas to be evaluated based on knowledge of sensitive issues. (f) Deadline for receipt of written comments. (g) Individual with address/telephone/facsimile/e-mail address to whom comments should be sent. 	To be Determined by Action Proponent	Action proponent
NOI Review and Publication	2.1 After CNO (N45) receives a COMPLETE NOI Package from the action proponent, CNO (N45) will review NOI Package concurrently with other concerned or involved CNO N Codes.	10 days	CNO (N45)
	2.2 ASN staff reviews NOI Package. (To the extent feasible, ASN staff will participate with CNO (N45) staff in Headquarters (HQ) Tiger Team Meeting to coordinate comments on NOI Package.)	Concurrent with 2.1	ASN Staff
	2.3 CNO (N45) transmits coordinated comments to action proponent.	2 days	CNO (N45)
	2.4 Action proponent incorporates CNO (N45) and ASN comments and revises NOI Package and transmits revised NOI Package to CNO (N45). Subsequent reviews will be contingent upon the nature of the changes required, the number of changes to the document, and degree to which the comments were incorporated into the NOI Package.	To be Determined by Action Proponent	Action Proponent
	2.5 After CNO (N45) and ASN staff comments are satisfactorily incorporated into the NOI Package, N45 is briefed. CNO (N45) submits Action Memorandum to N4 for review of NOI (and brief to N4, if necessary) and consideration of the CNO (N45) request to notify/brief ASN.	3 days/10 days	CNO (N45)/N4
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published.</p> <p>3. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action).</p>			

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
NOI Review and Publication (continued)	2.6 When it has been determined that an EIS will be prepared, CNO (N45) Action Officer coordinates with Navy Office of Legislative Affairs (OLA) concerning Congressional notification of NOI publication and forwards to Navy OLA materials on the proposed action. Congressional notification may also be conducted for an OEIS, depending on the scope of the proposed action.	Concurrent with 2.5	CNO (N45)
	2.7 CNO(N45) schedules ASN brief.	Concurrent with 2.5	CNO (N45)
	2.8 ASN is briefed.	1 day	CNO (N45)/ ASN Staff
	2.9 After ASN is briefed, CNO (N45) coordinates with JAG Code 13 Office for review and formatting of NOI and submits NOI to <i>Federal Register</i> for publication.	5 days	CNO (N45)/ JAG Code 13
	2.10 NOI to prepare an EIS is published in <i>Federal Register</i> . Action proponent may distribute scoping letters to public concurrent with publication of the NOI in the <i>Federal Register</i> , but not before.	4 days	<i>Federal Register</i>
	2.11 For an EIS, action proponent publishes notices for scoping meetings in local newspapers.	15 calendar days or less before first scheduled meeting	Action Proponent
Public Scoping Meetings (EIS Only)	3.1 Public scoping period. Scoping Meetings must be held no less than 15 calendar days after publication of NOI in <i>Federal Register</i> and publication of notices in local newspapers.	30-45 calendar days	Action Proponent
	3.2a Post scoping meetings for an EIS, action proponent forwards copy of draft final DOPAA (Chapters 1 and 2 of Draft Environmental Impact Statement (DEIS)) to CNO (N45) for interim consistency review. A copy of the draft final DOPAA should also be coordinated with the AEC and REC. (NO FORMAL REVIEW IS CONDUCTED).	To be Determined by Action Proponent	Action Proponent
	3.2b The draft final DOPAA for a Draft OEIS (DOEIS) shall be submitted to CNO (N45) for an interim consistency review as soon as practicable after its completion by the action proponent. A copy of the draft final DOPAA should also be coordinated with the AEC and REC. (NO FORMAL REVIEW IS CONDUCTED).		
<div>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</div> <div>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published.</div> <div>3. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action).</div>			

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
Prepare DEIS/DOEIS	4.1 Upon completion of a preliminary draft DEIS/DOEIS, action proponent conducts internal/regional review of document, completes a statement of technical review, and obtains action proponent's attorney-prepared memorandum of legal sufficiency. CNO (N45) participation in Tiger Team meetings and any other developmental efforts in preparing a preliminary draft DEIS/DOEIS does not preclude execution of section 5.1 below.	To be Determined by Action Proponent	Action Proponent
DEIS/DOEIS Reviews, Briefs, Release to Public	5.1 Via the chain of command, the action proponent submits 5 paper copies of the DEIS/DOEIS Package and 1 CD-ROM copy in WORD to CNO (N45), with all endorsements, and 5 paper copies of the DEIS/DOEIS Package and 1 CD-ROM copy in WORD to ASN. The DEIS/DOEIS Package must contain: (A) Draft DEIS or DOEIS; (B) Proper organizational endorsements/chain of command endorsements in Adobe Acrobat 5.0 (.PDF) (300 dpi minimum document resolution); (C) Statement of Technical Review; and (D) Memorandum of Legal Sufficiency.	To be Determined by Action Proponent	Action Proponent
	5.2 After action proponent submits a COMPLETE DEIS/DOEIS Package to CNO (N45), CNO (N45) reviews DEIS/DOEIS Package concurrently with other concerned or involved CNO N Codes.	25 days	CNO (N45)
	5.3 ASN staff reviews of DEIS/DOEIS Package. (To the extent feasible, ASN staff will participate with CNO (N45) staff in HQ Tiger Team Meeting to coordinate comments on the DEIS/DOEIS Package.)	Concurrent with 5.2	ASN Staff
	5.4 CNO (N45) staff transmits coordinated comments to action proponent.	5 days	CNO (N45)
	5.5 Action proponent incorporates CNO (N45) and ASN comments, revises DEIS/DOEIS, and <u>transmits the revised DEIS/DOEIS to CNO (N45) and ASN</u> . Subsequent reviews will be contingent upon the nature of the changes required, the number of changes to the document, and degree to which the comments were incorporated into the DEIS/ DOEIS. All revisions to Draft and Final EISs and OEISs must be in paper copy (full copy of the document) with the text changes highlighted. In addition, a comment matrix (electronic and paper) listing all comments and how they were responded to must be submitted to CNO (N45) (Comment Response Package). Review of revised draft documents will commence upon receipt of the revised DEIS/DOEIS and the Comment Response Package.	To be Determined by Action Proponent	Action Proponent
	5.6 After CNO (N45) and ASN staff comments are satisfactorily incorporated into the DEIS/DOEIS Package, N45 is briefed. CNO (N45) submits Action Memorandum to N4 for review of DEIS/DOEIS (and brief to N4, if necessary) and consideration of the CNO (N45) request to release the DEIS/ DOEIS to public.	3 days/10 days	CNO (N45)/N4
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published.</p> <p>3. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action).</p>			

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
DEIS/DOEIS Reviews, Briefs, and Release to Public (continued)	5.7 CNO (N45) coordinates with Navy OLA concerning Congressional notification of the release of the DEIS to the public and forwards to Navy OLA materials on the proposed action.	Concurrent with 5.6	CNO (N45)
	5.8 CNO (N45) schedules ASN brief.	Concurrent with 5.6	CNO (N45)
	5.9 Action Proponent prepares draft Notice of Public Hearing (NOPH) and forwards to CNO (N45) via e-mail.	Concurrent with 5.6	Action Proponent
	5.10 ASN is briefed; signs letter permitting filing of DEIS with EPA or release of DOEIS to public.	1 day	CNO (N45)/ASN Staff
	5.11 Action proponent prints DEIS/DOEIS and initiates distribution. Copies of a DEIS must be sent to the applicable EPA Region NEPA staff, Federal and state agencies, and the public. Action proponent sends 10 paper copies of the DEIS/DOEIS to CNO (N45). Five copies of the DEIS will be filed with EPA. Action proponent also sends 15 CD-ROM copies of the DEIS/DOEIS to OLA for distribution to Congress.	Typically 1-3 weeks, depending on size of DEIS/DOEIS	Action Proponent
	5.12 Upon receipt of 10 copies of the DEIS, CNO (N45) files 5 copies of DEIS with EPA (filing will only occur on Monday through Wednesday). The 10 copies of the DOEIS will be distributed internal to Navy; there is no external filing requirement.	Up to 5 days	CNO (N45)
	5.13 OLA distributes CD-ROM copies of DEIS/DOEIS to Congress after DEIS is filed with EPA, but before the Notice of Availability (NOA) is published in the <i>Federal Register</i> , or when the DOEIS is deemed complete for distribution to the public and before an NOA is published in the <i>Federal Register</i> by the Navy.	During week prior to EPA publication of the NOA	OLA
	5.14 EPA publishes NOA in <i>Federal Register</i> (the NOA is always published by EPA in the <i>Federal Register</i> on the next Friday following the week in which the DEIS was filed). Publication of the NOA for a DEIS initiates public review/comment period on the DEIS. Navy publishes the NOA for a DOEIS, which is combined with the Notice of Public Hearing, as applicable (see 5.15).	7 days (based on filing on previous Wednesday)	EPA
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published.</p> <p>3. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action).</p>			

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
DEIS/DOEIS Reviews, Briefs, and Release to Public (continued)	5.15 CNO (N45) Action Officer forwards NOPH for a DEIS and the NOA/NOPH for an OEIS to JAG code 13 office for review and approval. Where applicable, CNO (N45) will notify JAG Code 13 of a specific publication date; JAG Code 13 will provide the appropriate form. CNO (45) submits NOPH to <i>Federal Register</i> for publication. For a DEIS, NOPH is coordinated with and may be published on the same day as the EPA NOA, but does not appear in the <i>Federal Register</i> before the NOA). The NOA/NOPH for an DOEIS is published in the <i>Federal Register</i> when submitted by CNO (N45). (Note: this step may be concurrent with 5.14 or 6.1 depending on when the public hearings are scheduled.)	Concurrent with 5.14 or 6.1 (5 days)	CNO (N45)/ JAG Code 13
	5.16 NOPH or NOA/NOPH is published in the <i>Federal Register</i> . (Note: may be concurrent with 5.14 or 6.1 depending on when the public hearings are scheduled.)	4 days	Federal Register
	5.17 Action proponent publishes NOPH or NOA/NOPH in local newspaper prior to or on the same day as the NOPH or NOA/NOPH appears in the <i>Federal Register</i> , but no later than 15 calendar days before the first scheduled public hearing.	Concurrent with 5.16	Action Proponent
	5.18 If an extension of the public review/comment period is required after the initial NOPH or NOA/NOPH is published, the action proponent must coordinate with CNO (N45) to ensure a Notice of Extension is published in the <i>Federal Register</i> .	Before end of comment period	Action proponent and CNO (N45)
Public Review Period and Hearings	6.1 DEIS/DOEIS public review period. First scheduled Public Hearing must be held no less than 15 calendar days after publication of NOPH or NOA/NOPH in <i>Federal Register</i> .	45 calendar days	Action Proponent
Prepare FEIS/FOEIS	7.2 Upon completion of a preliminary draft FEIS/FOEIS, action proponent conducts internal/regional review of document, completes a Statement of Technical Review, and obtains action proponent's attorney prepared Memorandum of Legal Sufficiency.	To be Determined by Action Proponent	Action Proponent
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published.</p> <p>3. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action).</p>			

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
FEIS/FOEIS Reviews, Briefs, and Release to the Public	8.1 Via the chain of command, the action proponent submits 5 paper copies of the FEIS/FOEIS Package and 1 CD-ROM copy in WORD to CNO (N45), with endorsements in Adobe Acrobat 5.0 (.PDF) (300 dpi minimum document resolution), and 5 paper copies of the FEIS/FOEIS Package and 1 CD-ROM copy in WORD to ASN. The FEIS/FOEIS Package must contain: (A) Preliminary draft FEIS or Draft FOEIS; (B) Proper organizational endorsements/chain of command endorsements; (C) Statement of Technical Review; and (D) Memorandum of Legal Sufficiency.	To be Determined by Action Proponent	Action Proponent
	8.2 After action proponent submits a COMPLETE DEIS/DOEIS Package to CNO (N45), CNO (N45) reviews FEIS/FOEIS Package concurrently with other concerned or involved CNO N Codes.	15 days	CNO (N45)
	8.3 ASN staff reviews of FEIS/FOEIS Package. (To the extent feasible, ASN staff will participate with CNO (N45) staff in HQ Tiger Team Meeting to coordinate comments on the FEIS/FOEIS Package.)	Concurrent with 8.2	ASN Staff
	8.4 CNO (N45) transmits coordinated comments to action proponent.	3 days	CNO (N45)
	8.5 Action proponent incorporates CNO (N45) and ASN comments and revises FEIS/FOEIS and transmits revised FEIS/FOEIS to CNO (N45) and ASN. Subsequent reviews will be conducted and contingent upon the nature of the comments provided, the number of changes to the document, and degree to which the comments were incorporated into the FEIS/FOEIS Package. All revisions to Draft and Final EISs and OEISs must be in paper copy (full copy of the document) with the text changes highlighted. In addition, a comment matrix (electronic and paper) listing all comments and how they were responded to must be submitted to CNO (N45) (Comment Response Package). CNO (N45) will commence its review upon receipt of the revised FEIS/FOEIS and the Comment Response Package.	To be Determined by Action Proponent	Action proponent
	8.6 After CNO (N45) and ASN staff comments are satisfactorily incorporated into the FEIS/FOEIS Package, N45 is briefed. CNO (N45) submits Action Memorandum to N4 for review of FEIS/FOEIS (and brief to N4, if necessary) and consideration of the CNO (N45) request to release the FEIS/FOEIS to public.	3 days/ 10 days	CNO (N45)/N4
	8.7 CNO (N45) coordinates with Navy OLA concerning Congressional notification of the release of the FEIS/FOEIS to the public and forwards to Navy OLA materials on the proposed action.	Concurrent with 8.6	CNO (N45)
	8.8 ASN brief is scheduled.	Concurrent with 8.6	CNO (N45)
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published.</p> <p>3. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action).</p>			

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
FEIS/FOEIS Reviews, Briefs, and Release to the Public (continued)	8.9 ASN is briefed; signs letter permitting filing of FEIS with EPA or release of the FOEIS to the public.	1 day	CNO (N45)/ ASN Staff
	8.10 Action proponent prints FEIS/FOEIS and initiates distribution. Copies of a FEIS must be sent to the applicable EPA Region NEPA staff, Federal and state agencies, and the public. Action proponent sends 10 paper copies of the FEIS/FOEIS to CNO (N45). Five copies of the FEIS will be filed with EPA. Action proponent also sends 15 CD-ROM copies of the FEIS/FOEIS to OLA for distribution to Congress.	Typically 1-3 weeks, depending on size of FEIS/FOEIS	Action Proponent
	8.11 Upon receipt of 10 copies of the FEIS, CNO (N45) files 5 copies of FEIS with EPA (filing will only occur on Monday through Wednesday). The 10 copies of the FOEIS will be distributed internal to Navy; there is no external filing requirement.	Up to 5 days	CNO (N45)
	8.12 OLA distributes CD-ROM copies of FEIS/FOEIS to Congress after FEIS is filed with EPA, but before the Notice of Availability (NOA) is published in the <i>Federal Register</i> , or when the FOEIS is deemed complete for distribution to the public and before an NOA is published in the <i>Federal Register</i> by the Navy.	During week prior to EPA publication of the NOA	OLA
	8.13 EPA publishes NOA in <i>Federal Register</i> (the NOA is always published by EPA in <i>Federal Register</i> on the next Friday following the week in which the FEIS was filed). For an FOEIS, the Navy publishes an NOA in the <i>Federal Register</i> . Publication of the NOA for either type of document initiates a 30-calendar-day wait period (no action period) on decision-making.	7 days (based on filing on previous Wednesday)	EPA
Wait Period (No Action Period)	9.1 Final decision may not be made by ASN until 30 calendar days after the NOA appears in the <i>Federal Register</i> . This 30-calendar-day wait period is for interagency review of the FEIS/FOEIS. (Note: Per 40 CFR 1506.10, no decision on a proposed action may be made until the later of the following dates: (1) 90 days after EPA's publication of the NOA for the DEIS in the <i>Federal Register</i> ; or (2) 30 days after EPA's publication of the NOA for the FEIS in the <i>Federal Register</i> . The same timelines apply to decision making on an FOEIS)	30 calendar days	Federal Agencies
Preliminary ROD/Letter of Endorsement	10.1 For an FEIS, action proponent drafts preliminary Record of Decision (ROD) and electronically forwards to CNO (N45) via e-mail (preferably current with submission of the FEIS). (New substantive comments received on the FEIS and not otherwise addressed in the FEIS must be addressed in the ROD; responses to these comments should be incorporated in a later draft of the ROD.) A preliminary draft letter of endorsement of the findings and recommendations of the action proponent as identified in the FOEIS is forwarded to the CNO (N45) via e-mail, preferably concurrent with submission of the FOEIS.	Concurrent with 9.1	Action Proponent
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published.</p> <p>3. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action).</p>			

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
Final ROD/Letter of Endorsement	11.1 Upon receipt of the preliminary draft ROD for an FEIS (or a preliminary draft Letter of Endorsement for an FOEIS) from the action proponent, CNO (N45) reviews format and content for consistency with ASN ROD instructions/ <i>Federal Register</i> format.	5 days	CNO (N45)
	11.2 ASN staff level reviews preliminary ROD for an FEIS (or a preliminary draft Letter of Endorsement for an FOEIS).	Concurrent with 11.1	ASN Staff
	11.3 CNO and ASN comments are resolved in HQ Tiger Team Meeting and CNO (N45) develops draft ROD for an FEIS (or a draft Letter of Endorsement for an FOEIS) in coordination with action proponent. (If there are significant issues identified during the wait period for the FEIS/FOEIS, the ROD may be coordinated with other concerned or involved N Codes.)	1 day	CNO (N45)
	11.4 CNO (N45) forwards ROD to JAG Code 13 Office for review and approval of format for publication in the <i>Federal Register</i> .	3 days	CNO (N45)/ JAG Code 13
	11.5 CNO (N45) schedules ASN brief.	Concurrent with 11.3	CNO (N45)
	11.6 ASN is briefed.	1 day	CNO (N45)/ ASN Staff
	11.7 ASN signs ROD for an FEIS (or a Letter of Endorsement for an FOEIS).	Signed at discretion of ASN	ASN
	11.8 CNO (N45) coordinates with Navy OLA concerning Congressional notification of ROD/Letter of Endorsement issuance and provides copy of approved ROD/Letter of Endorsement to OLA for distribution to Congress after ROD/Letter of Endorsement is signed, but before ROD is published in the <i>Federal Register</i> . There is no requirement of publish the Letter of Endorsement for an FOEIS in the <i>Federal Register</i> .	Concurrent with 11.3	CNO (N45)/ OLA
	11.9 ROD published in the <i>Federal Register</i> .	4 days	<i>Federal Register</i>
	11.10 CNO (N45) sends ROD to the action proponent for publishing notice of signed ROD in local newspapers. There is no requirement to publish a notice of the signed Letter of Endorsement in local newspapers.	1 day	Action Proponent
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published.</p> <p>3. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action).</p>			

Review and Processing of Environmental Impact Statements (EISs)/Overseas EISs (OEISs) at CNO and Secretariat Levels

Step	Process Description	Duration (Working Days) ^{1,2,3}	Responsible Organization
Final ROD/Letter of Endorsement (continued)	11.11 CD-ROM of FEIS with ROD or FOEIS with Letter of Endorsement is forwarded to CNO (N45) in compliance with CNO (N45) memorandum 5090 Ser N456F/1U595758 of 25 SEP 01.	To be Determined by Action Proponent	Action Proponent
<p>1. CNO (N45) review periods are subject to the complexity and size of the document and the availability of CNO (N45) staff. For planning purposes, the identified review periods should be considered as minimums (although where the proposed action involves a readiness issue, a more compressed review may be considered). Action proponents should factor these periods into their project scheduling.</p> <p>2. The timeline for document preparation is determined by the action proponent since it is dependent on such tasks as the preparation of each version of the document, the time required for conducting internal reviews, the incorporation of CNO(N45) and ASN comments, and the completion of consultation with regulatory agencies, which can, for example, require about 135 days for formal consultation under Section 7 of the Endangered Species Act, 165 days for federal coastal consistency review, or up to 240 days to obtain a 5-year Small Take Permit (Letter of Authorization) under the Marine Mammal Protection Act. All regulatory consultations must be completed and documented before an FEIS or FOEIS may be released to the public. Action proponents should also consider and plan for the following potential constraints on the overall schedule for reviewing and processing an EIS or OEIS: holidays, Congressional recesses, and dates when the <i>Federal Register</i> may not be published.</p> <p>3. CNO (N45) will conduct reviews of environmental planning documents through appropriate chains of command to ASN (I&E) or ASN (RD&A) depending on the type of proposed action (e.g., ASN (I&E) for an operational action or ASN (RD&A) for an acquisition action).</p>			

Standard Outline/Template for an NOI

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent to Prepare an Environmental Impact Statement for *[PROPOSED ACTION]* at *[INSTALLATION/RANGE/OPAREA]*, *[CITY/COUNTY]*, *[STATE]* and to Announce Public Scoping Meetings

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section (102)(2)(c) of the National Environmental Policy Act (NEPA) of 1969, and the regulations implemented by the Council on Environmental Quality (40 CFR Parts 1500-1508), the Department of the Navy (Navy) announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental consequences of ***[SUMMARY OF PROPOSED ACTION AND ITS COMPONENTS]***.

DATES AND ADDRESSES: Public Scoping meetings will be held in ***[CITY/COUNTY/STATE]*** to receive oral and written comments on environmental concerns that should be addressed in the EIS. Public scoping meetings will be held on ***[DAYS, DATES, TIMES, LOCATIONS]***.

FOR FURTHER INFORMATION CONTACT: ***[POC, COMMAND, ADDRESS, TELEPHONE, FACSIMILE, E-MAIL ADDRESS]***.

SUPPLEMENTAL INFORMATION: ***[TEXT SHOULD COVER THE FOLLOWING, AS APPROPRIATE:***

- ***Brief description of the proposed action, including identification of action proponent and any cooperating agency.***
- ***Purpose and need for the action.***
- ***Alternatives to be considered***
- ***Extent and duration of action.***
- ***Impact areas to be evaluated based on knowledge of sensitive issues.***
- ***Deadline for receipt of written comments.***
- ***Individual with address/telephone/facsimile/e-mail address to who comments should be sent.***

Notes:

1. Action proponent fills in information in place of bracketed italicized text placeholders.
2. Complete addresses are required for all scoping locations. Do not use abbreviations.
3. *Federal Register* format requires NOI to be:
 - a. In Courier New 12 pt font.
 - b. Double-spaced.
 - c. With unjustified margins.
 - d. No page number on first page; pagination on subsequent pages.

language in § 75.1714–2(e) to refer to the renumbered standard.

Discussion of Change

Section 75.1714–2 (Self-rescue devices; use and location requirements) requires self-rescue devices to be used and located as prescribed in paragraphs (b) through (f) of this section. Paragraph (e) provides the mechanism for a mine operator to allow placement of self-contained self-rescuers (SCSRs) more than 25 feet away when necessary. The mine operator must apply to the District Manager of the Coal Mine Safety and Health district in which the mine is located for permission to place the SCSR more than 25 feet away.

Prior to the promulgation of the Emergency Evacuations rule, the mine operator submitted an application to the District Manager under § 75.1101–23. The promulgation of the Emergency Evacuations rule removed § 75.1101–23 and created § 75.1502 (Mine emergency evacuation and firefighting program of instruction).

This technical amendment updates wording in § 75.1714–2(e) to correctly reference the renumbered § 75.1502 (Mine emergency evacuation and firefighting program of instruction).

List of Subjects in 30 CFR Part 75

Coal mines, Underground coal mining, Fire prevention, Mine safety and health.

Dated: February 13, 2004.

Dave D. Lauriski,

Assistant Secretary of Labor for Mine Safety and Health.

■ Chapter I of title 30, part 75 of the Code of Federal Regulations is amended as follows:

PART 75—[AMENDED]

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 2. Section 75.1714–2 is amended by revising paragraph (e) introductory text to read as follows:

§ 75.1714–2 Self-rescue devices; use and location requirements.

* * * * *

(e) A mine operator may apply to the District Manager under § 75.1502 for permission to place the SCSR more than 25 feet away.

* * * * *

[FR Doc. 04–3771 Filed 2–20–04; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 775

RIN 0703–AA51

Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DON) is revising portions of its internal regulations that establish the responsibilities and procedures within the DON for complying with the National Environmental Policy Act (NEPA). This revision clarifies when certain DON actions must be studied to determine their effect on the human environment and what types of activities are excluded from the NEPA analysis and documentation requirements.

DATES: Effective February 23, 2004.

ADDRESSES: Interested parties should request copies of the rule from: Mr. Thomas Egeland, Office of the Assistant Secretary of the Navy (Installations and Environment), 1000 Navy Pentagon, Washington, DC 20350–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Egeland, Office of the Assistant Secretary of the Navy (Installations and Environment), 703–614–5913.

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) establishes national policy and goals for protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision making and to prepare detailed environmental statements on recommendations or reports significantly affecting the quality of the human environment.

Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR parts 1500–1508) on November 29, 1978, which are binding on all Federal agencies as of July 30, 1979. These regulations require each Federal agency, as necessary, to adopt implementing procedures to supplement the CEQ

regulations. Section 1507.3(b) of the CEQ regulations identifies those sections of the regulations that must be addressed in agency procedures.

The final rule revises DON's implementing regulations that were originally published in 55 FR 33898 on August 20, 1990. Significant changes that these amendments bring about include: Revision of and additions to the DON list of approved categories of actions excluded from further analysis and documentation under NEPA; revised criteria for disallowing the application of listed categorical exclusions; and assignment of responsibilities to the Assistant Secretary of the Navy (Research, Development and Acquisition), the General Counsel of the Navy, and the Judge Advocate General of the Navy.

The DON published the proposed rule in 64 FR 37069 on July 9, 1999, and granted a 60-day comment period. DON received comments from one Federal agency, one state agency, one local government agency, and one private party. DON coordinated the proposed rule with Council on Environmental Quality (CEQ). DON carefully considered the comments received. Most comments focused on two general areas: The discussion of policies and responsibilities and the revision of DON categorical exclusions. In response to comments on policies and responsibilities: The rule was modified to more clearly reflect the relationship among internal DON regulations and between the rule and internal Department of Defense directives; the phrase “environmental analysis” was substituted for the term “NEPA document” where appropriate; and definitions and other discussions perceived as inconsistent with the regulations promulgated by CEQ were deleted.

The discussion of categorical exclusions was also modified in response to comments. Based upon a recommendation from CEQ that routine documentation of categorical exclusions was not necessary, the two-group approach to categorical exclusions contained in the draft rule was eliminated. As a result, the categorical exclusions were placed in a single group and renumbered. The consolidation into a single grouping also reemphasized that, even though a proposed action generally is covered by a listed categorical exclusion, a categorical exclusion will not be used if the proposed action categorical exclusion involved any one of several enumerated conditions.

Several categorical exclusions were modified to reflect that they were

intended to apply to routine actions of the nature described in the particular exclusion. Categorical exclusion XXVII, addressing natural resource management actions covered by an Environmental Assessment (EA) or Environmental Impact Statement (EIS) on the underlying management plan, was eliminated as unnecessary. Categorical exclusion XXXII, addressing actions similar in type, intensity, and setting to other actions for which it had been determined in an EA or EIS that there were no significant impacts, was revised and is now presented as two separate and more specific categorical exclusions. The first of these two exclusions applies to routine testing and evaluation of military equipment on existing military reservations, ranges, and operating areas. This exclusion is intended to encompass routine categories of tests conducted in areas designated for or historically used for military operations, training, and testing. Examples of this categorical exclusion are captive-carry tests, weapons stores separation tests, and minor component survivability tests. The second of these two exclusions applies to routine military unit level training or minor training exercises conducted by two or more units. As with all DON categorical exclusions, these two exclusions cannot be used if they involve any of the enumerated conditions set out in Section 775.6(e).

The Department of the Navy has determined that this regulation is not a significant rule as defined by Executive Order 12866 and is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)).

List of Subjects in 32 CFR Part 775

Environmental impact statements.

■ Accordingly, Part 775 of Chapter VI of title 32 of the Code of Federal Regulations is amended as follows:

PART 775—POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

■ 1. The authority for Part 775 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 4321–4361; 40 CFR Parts 1500–1508.

■ 2. Section 775.1 is revised to read as follows:

§ 775.1 Purpose and scope.

(a) To implement the provisions of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, the Council on Environmental Quality

Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR 1500–1508, and the Department of Defense Instruction on Environmental Planning and Analysis, DODINST 4715.9, and to assign responsibilities within the Department of the Navy (DON) for preparation, review, and approval of environmental documents prepared under NEPA.

(b) The policies and responsibilities set out in this part apply to the DON, including the Office of the Secretary of the Navy, and Navy and Marine Corps commands, operating forces, shore establishments, and reserve components. This part is limited to the actions of these elements with environmental effects in the United States, its territories, and possessions.

■ 3. Section 775.2 is revised to read as follows:

§ 775.2 Definitions.

(a) *Action proponent.* The commander, commanding officer, or civilian director of a unit, activity, or organization who initiates a proposal for action, as defined in 40 CFR 1508.23, and who has command and control authority over the action once it is authorized. For some actions, the action proponent will also serve as the decision-making authority for that action. In specific circumstances, the action proponent and decision maker may be identified in Navy Regulations, other SECNAV Instructions, operational instructions and orders, acquisition instructions, and other sources which set out authority and responsibility within the DON.

(b) *Environmental Impact Statement (EIS).* An environmental document prepared according to the requirements of Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508) for a major action that will have a significant effect on the quality of the human environment.

(c) *Environmental Assessment (EA).* A concise document prepared according to the requirements of 40 CFR parts 1500–1508 that briefly provides sufficient evidence and analysis for determining whether to prepare an EIS. An EA aids compliance with NEPA when no EIS is necessary and facilitates preparation of an EIS when one is necessary.

(d) *Categorical Exclusion (CATEX).* A published category of actions that do not individually or cumulatively have a significant impact on the human environment under normal circumstances, and, therefore, do not require either an environmental assessment or an environmental impact statement.

(e) *Record of Decision (ROD).* An environmental document signed by an appropriate official of the DON. A ROD sets out a concise summary of the final decision and selected measures for mitigation (if any) of adverse environmental impacts of the alternative chosen from those considered in an EIS.

(f) *Finding of No Significant Impact (FONSI).* A document that sets out the reasons why an action not otherwise categorically excluded will not have a significant impact on the human environment, and for which an EIS will not therefore be prepared. A FONSI will include the EA or a summary of it and shall note any other environmental documents related to it. A FONSI may be one result of review of an EA.

■ 4. Section 775.3 is revised to read as follows:

§ 775.3 Policy.

(a) It is the DON policy regarding NEPA, consistent with its mission and regulations and the environmental laws and regulations of the United States, to:

(1) Initiate the NEPA processes at the earliest possible time to be an effective decision making tool in the course of identifying a proposed action.

(2) Develop and carefully consider a reasonable range of alternatives for achieving the purpose(s) of proposed actions.

(3) Assign responsibility for preparation of action specific environmental analysis under NEPA to the action proponent. The action proponent should understand the plans, analyses, and environmental documents related to that action.

(b) NEPA is intended to ensure that environmental issues are fully considered and incorporated into the Federal decision making process. Consequently, actions for which the DON has no decision-making authority and no discretion in implementing the action, such as those carried out under a non discretionary mandate from Congress (*e.g.*, congressional direction to transfer Federal property to a particular entity for a particular purpose that leaves DON no discretion in how the transfer will be implemented) or as an operation of law (*e.g.*, reversionary interests in land recorded at the time the property was obtained and that provide no discretion in whether to trigger the reversion or how the reversion will be implemented), require no analysis or documentation under NEPA or its implementing regulations.

■ 5. Section 775.4 is revised to read as follows:

§ 775.4 Responsibilities.

(a) The Assistant Secretary of the Navy (Installations and Environment) (ASN (I&E)) shall:

(1) Act as principal liaison with the Office of the Secretary of Defense, the Council on Environmental Quality, the Environmental Protection Agency, other Federal agencies, Congress, state governments, and the public with respect to significant NEPA matters.

(2) Direct the preparation of appropriate environmental analysis and documentation and, with respect to those matters governed by SECNAV Instruction 5000.2 series, advise the Assistant Secretary of the Navy (Research Development and Acquisition) (ASN (RD&A)) concerning environmental issues and the appropriate level of environmental analysis and NEPA documentation needed in any particular circumstance.

(3) Except for proposed acquisition-related actions addressed in paragraph (b)(2) of this section, review, sign, and approve for publication, as appropriate, documents prepared under NEPA.

(4) Establish and publish a list of categorical exclusions for the DON.

(b) The Assistant Secretary of the Navy (Research, Development and Acquisition) (ASN (RD&A)) shall, in accordance with SECNAV Instruction 5000.2 series:

(1) Ensure that DON acquisition programs, research programs, and procurements comply with NEPA.

(2) Review, sign, and approve for publication, as appropriate, environmental documents prepared under NEPA for proposed acquisition or research and development related actions.

(c) The General Counsel of the Navy and the Judge Advocate General of the Navy shall:

(1) Ensure that legal advice for compliance with environmental planning requirements is available to all decision-makers.

(2) Advise the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps as to the legal requirements that must be met, and the conduct and disposition of all legal matters arising in the context of environmental planning.

(d) The Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC) shall:

(1) Implement effective environmental planning throughout their respective services.

(2) Prepare and issue instructions or orders to implement environmental planning policies of the DON. Forward proposed CNO/CMC environmental planning instructions or orders to ASN

(I&E) and, when appropriate, ASN (RD&A) for review and comment prior to issuance.

(3) Make decisions on environmental assessments as to whether a Finding of No Significant Impact is appropriate or preparation of an environmental impact statement is required.

(4) Ensure that subordinate commands establish procedures for implementing mitigation measures described in NEPA documents.

(5) Provide coordination as required for the preparation of NEPA documents for actions initiated by non-DON/DOD entities, state or local agencies and/or private individuals for which service involvement may be reasonably foreseen.

(6) Bring environmental planning matters that involve controversial issues or which may affect environmental planning policies or their implementation to the attention of ASN (I&E) and, where appropriate, ASN (RD&A) for coordination and determination.

(7) Notify ASN (I&E), and when appropriate, ASN (RD&A) of any proposed EIS, and of any EA that may involve potentially sensitive public interest issues. EIS notification shall occur prior to commencing NEPA document preparation or receiving any public or regulatory agency involvement. EA notification shall be made as soon as it becomes apparent that potentially sensitive public issues are involved.

■ 6. Section 775.6 is amended by revising paragraphs (a), (b), (e) and (f) to read as follows:

§ 775.6 Planning considerations.

(a) An EIS must be prepared for proposed major Federal actions that will have significant impacts on the human environment. The agency decision in the case of an EIS is reflected in a ROD.

(b) Where a proposed major Federal action has the potential for significantly affecting the human environment, but it is not clear whether the impacts of that particular action will in fact be significant, or where the nature of an action precludes use of a categorical exclusion, an EA may be used to assist the agency in determining whether to prepare an EIS. If the agency determination in the case of an EA is that there is no significant impact on the environment, the findings will be reflected in a FONSI. If the EA determines that the proposed action is likely to significantly affect the environment (even after mitigation), then an EIS will be prepared. An EA

also may be used where it otherwise will aid compliance with NEPA.

* * * * *

(e) A categorical exclusion (CATEX), as defined and listed in this regulation, may be used to exclude a proposed action from further analysis. Even though a proposed action generally is covered by a listed categorical exclusion, a categorical exclusion will not be used if the proposed action:

(1) Would adversely affect public health or safety;

(2) Involves effects on the human environment that are highly uncertain, involve unique or unknown risks, or which are scientifically controversial;

(3) Establishes precedents or makes decisions in principle for future actions that have the potential for significant impacts;

(4) Threatens a violation of Federal, state, or local environmental laws applicable to the Department of the Navy; or

(5) Involves an action that, as determined in coordination with the appropriate resource agency, may:

(i) Have an adverse effect on Federally listed endangered/threatened species or marine mammals;

(ii) Have an adverse effect on coral reefs or on Federally designated wilderness areas, wildlife refuges, marine sanctuaries, or parklands;

(iii) Adversely affect the size, function or biological value of wetlands and is not covered by a nation-wide or regional permit;

(iv) Have an adverse effect on archaeological resources or resources (including but not limited to ships, aircraft, vessels and equipment) listed or determined eligible for listing on the National Register of Historic Places; or

(v) Result in an uncontrolled or unpermitted release of hazardous substances or require a conformity determination under standards of the Clean Air Act General Conformity Rule.

(f) *Categorical exclusions.* Subject to the criteria in paragraph (e) above, the following categories of actions are excluded from further analysis under NEPA. The CNO and CMC shall determine whether a decision to forego preparation of an EA or EIS on the basis of one or more categorical exclusions must be documented in an administrative record and the format for such record.

(1) Routine fiscal and administrative activities, including administration of contracts;

(2) Routine law and order activities performed by military personnel, military police, or other security personnel, including physical plant protection and security;

(3) Routine use and operation of existing facilities, laboratories, and equipment;

(4) Administrative studies, surveys, and data collection;

(5) Issuance or modification of administrative procedures, regulations, directives, manuals, or policy;

(6) Military ceremonies;

(7) Routine procurement of goods and services conducted in accordance with applicable procurement regulations, executive orders, and policies;

(8) Routine repair and maintenance of buildings, facilities, vessels, aircraft, and equipment associated with existing operations and activities (e.g., localized pest management activities, minor erosion control measures, painting, refitting);

(9) Training of an administrative or classroom nature;

(10) Routine personnel actions;

(11) Routine movement of mobile assets (such as ships and aircraft) for homeport reassignments, for repair/overhaul, or to train/perform as operational groups where no new support facilities are required;

(12) Routine procurement, management, storage, handling, installation, and disposal of commercial items, where the items are used and handled in accordance with applicable regulations (e.g., consumables, electronic components, computer equipment, pumps);

(13) Routine recreational/welfare activities;

(14) Alteration of and additions to existing buildings, facilities, structures, vessels, aircraft, and equipment to conform or provide conforming use specifically required by new or existing applicable legislation or regulations (e.g., hush houses for aircraft engines, scrubbers for air emissions, improvements to storm water and sanitary and industrial wastewater collection and treatment systems, and installation of fire fighting equipment);

(15) The modification of existing systems or equipment when the environmental effects will remain substantially the same and the use is consistent with applicable regulations;

(16) Routine movement, handling and distribution of materials, including hazardous materials/wastes that are moved, handled, or distributed in accordance with applicable regulations;

(17) New activities conducted at established laboratories and plants (including contractor-operated laboratories and plants) where all airborne emissions, waterborne effluent, external ionizing and non-ionizing radiation levels, outdoor noise, and solid and bulk waste disposal practices

are in compliance with existing applicable Federal, state, and local laws and regulations;

(18) Studies, data, and information gathering that involve no permanent physical change to the environment (e.g., topographic surveys, wetlands mapping, surveys for evaluating environmental damage, and engineering efforts to support environmental analyses);

(19) Temporary placement and use of simulated target fields (e.g., inert mines, simulated mines, or passive hydrophones) in fresh, estuarine, and marine waters for the purpose of non-explosive military training exercises or research, development, test and evaluation;

(20) Installation and operation of passive scientific measurement devices (e.g., antennae, tide gauges, weighted hydrophones, salinity measurement devices, and water quality measurement devices) where use will not result in changes in operations tempo and is consistent with applicable regulations;

(21) Short-term increases in air operations up to 50 percent of the typical operation rate, or increases of 50 operations per day, whichever is greater. Frequent use of this CATEX at an installation requires further analysis to determine there are no cumulative impacts;

(22) Decommissioning, disposal, or transfer of Navy vessels, aircraft, vehicles, and equipment when conducted in accordance with applicable regulations, including those regulations applying to removal of hazardous materials;

(23) Non-routine repair and renovation, and donation or other transfer of structures, vessels, aircraft, vehicles, landscapes or other contributing elements of facilities listed or eligible for listing on the National Register of Historic Places which will result in no adverse effect;

(24) Hosting or participating in public events (e.g., air shows, open houses, Earth Day events, and athletic events) where no permanent changes to existing infrastructure (e.g., road systems, parking and sanitation systems) are required to accommodate all aspects of the event;

(25) Military training conducted on or over nonmilitary land or water areas, where such training is consistent with the type and tempo of existing non-military airspace, land, and water use (e.g., night compass training, forced marches along trails, roads and highways, use of permanently established ranges, use of public waterways, or use of civilian airfields);

(26) Transfer of real property from DON to another military department or to another Federal agency;

(27) Receipt of property from another Federal agency when there is no anticipated or proposed substantial change in land use;

(28) Minor land acquisitions or disposals where anticipated or proposed land use is similar to existing land use and zoning, both in type and intensity;

(29) Disposal of excess easement interests to the underlying fee owner;

(30) Renewals and minor amendments of existing real estate grants for use of Government-owned real property where no significant change in land use is anticipated;

(31) Land withdrawal continuances or extensions that merely establish time periods and where there is no significant change in land use;

(32) Renewals and/or initial real estate in grants and out grants involving existing facilities and land wherein use does not change significantly (e.g., leasing of federally-owned or privately-owned housing or office space, and agricultural out leases);

(33) Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, storm water, and irrigation pipelines, pumping stations, and facilities; and for similar utility and transportation uses;

(34) New construction that is similar to existing land use and, when completed, the use or operation of which complies with existing regulatory requirements (e.g., a building within a cantonment area with associated discharges/runoff within existing handling capacities);

(35) Demolition, disposal, or improvements involving buildings or structures when done in accordance with applicable regulations including those regulations applying to removal of asbestos, PCBs, and other hazardous materials;

(36) Acquisition, installation, and operation of utility (e.g., water, sewer, electrical) and communication systems (e.g., data processing cable and similar electronic equipment) which use existing rights of way, easements, distribution systems, and/or facilities;

(37) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment, where the facility or

equipment is not used to prevent/control environmental impacts);

(38) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site;

(39) Relocation of personnel into existing Federally-owned or commercially leased space that does not involve a substantial change affecting the supporting infrastructure (e.g., no increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase);

(40) Pre-lease upland exploration activities for oil, gas or geothermal reserves, (e.g., geophysical surveys);

(41) Installation of devices to protect human or animal life (e.g., raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, and fencing and grating to prevent accidental entry to hazardous areas);

(42) Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved;

(43) Temporary closure of public access to DON property in order to protect human or animal life;

(44) Routine testing and evaluation of military equipment on a military reservation or an established range, restricted area, or operating area; similar in type, intensity and setting, including physical location and time of year, to other actions for which it has been determined, through NEPA analysis where the DON was a lead or cooperating agency, that there are no significant impacts; and conducted in accordance with all applicable standard operating procedures protective of the environment;

(45) Routine military training associated with transits, maneuvering, safety and engineering drills, replenishments, flight operations, and weapons systems conducted at the unit or minor exercise level; similar in type, intensity and setting, including physical location and time of year, to other actions for which it has been determined, through NEPA analysis where the DON was a lead or cooperating agency, that there are no significant impacts; and conducted in accordance with all applicable standard operating procedures protective of the environment.

■ 7. Section 775.12 is revised to read as follows:

§ 775.12 Delegation of authority.

(a) The ASN (I&E) may delegate his/her responsibilities under this

instruction for review, approval and/or signature of EISs and RODs to appropriate Executive Schedule/Senior Executive Service civilians or flag/general officers. ASN (I&E), CNO, and CMC may delegate all other responsibilities assigned in this instruction as deemed appropriate.

(b) The ASN (RD&A) delegation of authority for approval and signature of documents under NEPA is contained in SECNAV Instruction 5000.2 series, which sets out policies and procedures for acquisition programs.

(c) Previously authorized delegations of authority are continued until revised or withdrawn.

Dated: February 13, 2004.

S.A. Hughes,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 04-3590 Filed 2-20-04; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations and modified Base Flood Elevations (BFEs) are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard

Identification Section, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2903.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of BFEs and modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and 44 CFR part 67.

The Federal Emergency Management Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

5090
Ser N456N/3U574746
July 25, 2003

From: Chief of Naval Operations (N45)
To: Distribution

Subj: SECTION 7 CONSULTATION PROCEDURES UNDER THE ENDANGERED
SPECIES ACT (ESA)

Ref: (a) CNO (N45) ltr Ser N456N/3U574698 of 6 Jun 03

Encl: (1) Director, NOAA Fisheries Memo of 17 Jan 03

1. This letter supersedes reference (a) and further clarifies the Endangered Species Act (ESA) consultation process with NOAA Fisheries.

2. In January 2003, NOAA Fisheries, Office of Protected Resources (F/PR) issued procedures to their Regional Administrators for conducting Section 7 consultations under the ESA with the Navy (enclosure (1)). As discussed in enclosure (1), NOAA Fisheries centralized certain formal consultations with Navy. F/PR will lead these formal consultations with support from the NOAA Fisheries Regions. NOAA Fisheries Regions, with support from F/PR, will continue to lead informal consultations with Navy. Accordingly, all Navy organizations and commands conducting activities in the marine environment involving research, development, testing of weapons and other systems tests and evaluations, training, and operations that require consultation under Section 7 of the ESA will use the following procedures:

Informal Consultations

a. The Echelon II command or the action proponent, as appropriate, will coordinate informal consultations with CNO (N45) before initiating discussions with the NOAA Fisheries Regional Office. Informal consultations will be conducted at the Echelon II level, or lower if coordinated with the Echelon II command.

b. The Echelon II command or the action proponent, as appropriate, will advise CNO (N45) of the progress in the informal process if formal consultations are expected to follow informal consultations.

ATTACHMENT (M)

Subj: SECTION 7 CONSULTATION PROCEDURES UNDER THE ENDANGERED
SPECIES ACT (ESA)

c. If doubt exists as to whether a consultation should be formal or informal, contact CNO (N45) for a determination.

Formal Consultations

a. The Echelon II command or the action proponent, as appropriate, will coordinate all compliance documentation (biological assessments, etc.) with CNO (N45) in advance of any formal consultations.

b. CNO (N45) will notify NOAA Fisheries headquarters of Navy's intent to enter into formal consultations.

c. The Echelon II command or the action proponent, as appropriate, will conduct the formal consultation with NOAA Fisheries headquarters.

d. The Echelon II command or the action proponent, as appropriate, shall include CNO (N45) in initial discussions and at the first formal consultation meeting with NOAA Fisheries headquarters.

e. The Echelon II command or the action proponent, as appropriate, shall coordinate all negotiation issues with CNO (N45) throughout the formal consultation process.

3. Shore-based actions such as construction, ashore operations, or maintenance functions conducted by Naval facilities will continue to use procedures currently in place.

4. The procedures described in paragraph 2 above align the Navy process with that adopted by NOAA Fisheries and will contribute to consistency in consultations by centralizing the formal process at the headquarters level. Please address any questions concerning these procedures or the formal consultation process to the CNO (N45) point of contact, Dr. V. Frank Stone at 703-604-1424, DSN 664-1424, or e-mail frank.stone@navy.mil.



William G. Mattheis
Deputy Director, Environmental
Readiness Division (OPNAV N45)

Subj: SECTION 7 CONSULTATION PROCEDURES UNDER THE ENDANGERED
SPECIES ACT (ESA)

Distribution:

CNO (N096, N76, N77, N78)

CNR

COMLANTFLT

COMPACFLT

COMNAVAIRSYSCOM

COMNAVSEASYSYSCOM

COMSPAWARSYSYSCOM

PEO Mine & Undersea Warfare

PEO Submarines

PEO Surface Strike

Copy to:

CNO (N091, N43)

NUWC, Newport, RI

SPAWAR Systems Center, San Diego

NAVFAC (LANTDIV), Norfolk, VA

NAVFAC (SOUTHDIV), Charleston, SC

NAVFAC (SWDIV), San Diego, CA

NAVFAC (PACDIV), Pearl Harbor, HI

COMINELWARCOM, Corpus Christi, TX



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

JAN 17 2003

MEMORANDUM FOR: Regional Administrators
Science Center Directors
Office Directors

FROM: *William T. Hogarth*
William T. Hogarth, Ph.D.

SUBJECT: Intra-NOAA Fisheries Coordination of Endangered Species Act
(ESA) Section 7 Consultations on Navy Activities

The Office of Protected Resources (F/PR), in cooperation with all NOAA Fisheries regions and the Navy, developed a framework for conducting section 7 consultations with the Navy for research, training, and operations that is different from those with other agencies. The following provides the background for the framework and describes the procedures and the division of responsibilities on these consultations. These final procedures will be developed with regions and go into effect for consultations that begin after April 1, 2003.

Background

F/PR proposed that responsibility for consultations on Navy actions be centralized to increase overall awareness of Navy actions, improve our understanding of cumulative impacts, and improve consistency in these consultations. F/PR sought input from the Regions on options for where the responsibilities should be for conducting consultations on Naval research, weapons testing, training, and operations in open waters. Written and oral comments were received from the Regions. The preferred option is for F/PR to lead all formal consultations with ample support from the Regions and the appropriate Region lead informal consultations with ample support from F/PR on these types of activities. Formal and informal consultations on facility construction, operations, and maintenance would be conducted by the appropriate Region.

F/PR discussed this option with staff of the Navy, who found it to be appropriate. Many of their actions which occur within a particular region have national significance because the action allows for military readiness of an entire fleet, or involves an F/PR-issued Marine Mammal Protection Act authorization, for which they felt any consultation should be conducted with headquarters. In addition, the Navy's actions that are located in the open ocean are generally similar whether in the Pacific or the Atlantic Ocean. With this framework for section 7 consultations, any variation among Regions would be eliminated and a single approach would manifest. The Navy would then be able to more clearly understand NOAA Fisheries' approach.



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THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



ATTACHMENT (M)

and the outcome of the consultations. With that understanding, the Navy would be in a better position to initiate section 7 consultations on actions for which they have until now foregone. The centralization of consultations would also lead to better conservation of listed species and designated critical habitat because NOAA Fisheries would be better able to analyze the cumulative impacts of Navy actions. NOAA Fisheries could develop comprehensive knowledge of Navy actions and gather insights for programmatic consultations.

Framework for Section 7 Consultations with the U.S. Navy

Responsibility for section 7 consultations on Navy activities involving research in the marine environment, development and testing of weapons, military training exercises, or operation of vessels and aircraft are as follows:

- F/PR leads formal consultations on Navy activities with support from and in coordination with appropriate Region(s); F/PR is responsible for, and signs, the biological opinion.
- Regions conduct all informal consultations with coordination with F/PR; Region is responsible for, and signs, the concurrence letter.
- If there is a question on whether a consultation should be formal or informal, F/PR and the Region(s) will discuss the action and its effects to determine how to proceed. In instances when a consultation begins informally then shifts to a formal consultation, Region(s) and F/PR will work cooperatively on the final biological opinion.

For construction, operations, or maintenance activities of Naval facilities, the appropriate Region would be responsible for formal and informal consultations.

F/PR and the Regions must maintain communication and coordination during these consultations. All of the offices must contact appropriate staff in a timely manner. The Region must contact F/PR when they receive a letter or verbal notification of an upcoming Navy activity. F/PR will contact the appropriate Region(s) when a formal consultation is initiated. Depending on the location and nature of the activity, staff in the Region will be asked to assist with portions of the consultation and the biological opinion. Regions should seek F/PR review of letters of concurrence or other correspondence responding to the Navy.

Mi Ae Kim of F/PR has been designated as the point of contact for consultations with the Navy. Ms. Kim will track all of the consultations for consistency and provide guidance to the Regions on the consultations. She will maintain communication with Regions during the consultations.

Next Steps

Navy Specialists in the Regions: Each Region needs to identify a section 7 biologist(s) who will conduct informal consultations and coordinate with F/PR on formal consultations. Regions should identify their points of contact by January 31, 2003. The section 7 biologist will be trained on Navy's organization, structure, and operations to be better informed for the

consultations. The training may also involve marine acoustics and security clearance. Both the Navy and F/PR will provide this training.

Coordination Procedures: F/PR will take the lead in developing procedures for internal communication during the consultation, elevation of unresolved issues, review of documents, and any other needs that are identified. After each Region identifies a point of contact on Navy consultations, F/PR will work with them to develop these procedures.

Use of PRISM: Each Region and F/PR will need to continually update data in the Protected Resources Information and Status Management (PRISM) to assist with tracking efforts.

Additional FTEs: F/PR and the Navy are in dialogue to acquire resources for F/PR to fulfill ESA and other obligations with respect to naval research activities. The Navy understands that F/PR will need additional full-time employees to fulfill our MMPA and ESA responsibilities, and progress is being made to transfer funds from the Office of Naval Research to F/PR. The Office of Naval Research and F/PR are developing a Memorandum of Understanding through which the Navy will support two positions at F/PR to expedite ESA consultations and MMPA incidental take authorizations.

cc: GCF - Collins

CNO (N45) NEPA/EO 12114 Environmental Planning Guide and Checklist

Document Title:

Reviewer:

Document Date:

Phone:

Date:

Attached is a checklist to aid in preparing and reviewing Navy environmental planning documents, principally those prepared pursuant to the National Environmental Policy Act (NEPA). Those items that apply to EISs only are marked with an asterisk. This checklist may also be referred to when the environmental planning document being prepared is an OEA or OEIS in accordance with EO 12114. However, the user must recognize that EO 12114 analyses only address the natural environment.

Like any checklist or formula, this one has both its value and its limits. On one hand, this checklist may help environmental planners in all commands to:

- Avoid overlooking required or recommended items;
- Identify needed analyses and discussions; and
- Provide a record of an internal review.

On the other hand, the quality of an analysis under NEPA or EO 12114 cannot be reduced to a single formula or checklist. Each Navy proposed action presents unique circumstances and potential impacts. This checklist should be applied carefully because:

- A single checklist cannot be comprehensive or complete for all circumstances;
- It does not supersede legal requirements or applicable guidance;
- It alone cannot ensure that the EIS will be adequate under, and in full compliance with, NEPA and associated federal laws and regulations;
- Addressing generic items in a checklist format may not lead to a sufficiently rigorous analysis of potential impacts of a proposed action in all cases;
- Checklist items are not necessarily of equal importance or weight.

This checklist is not intended to promote cookie-cutter documentation. It should not be relied upon as the only way to build quality into a Navy EIS or EA. Like other tools of this type, it does not replace good judgment or sound analysis.

CNO (N45) NEPA/EO 12114 ENVIRONMENTAL CHECKLIST

Review Topic	Yes	No	N/A	Document Page	Adequacy Evaluation and Comments
I. Policy Considerations					
1. Would this action set a precedent for future actions that would have environmental impacts?					
2. Could this action cause impacts that would potentially violate other federal, state, and local environmental laws?					
3. Are any impacts uncertain, or involve unknown risks?					
II. Format, General Document Quality, User-Friendliness					
1. Is the standard CEQ format followed?					
2. Is a Table of Contents included?					
3. Is the document written concisely, clearly, and to the point, using plain language, and defining any technical terms that must be used?					
4. Is the document analytic rather than encyclopedic?					
5. Is information in tables and figures consistent with information in the text and appendices?					
6. Are the units consistent throughout the document?					
7. Are technical terms defined using plain language, where necessary?					
8. Are the correct regulatory terms used (e.g., no effect or may affect for ESA)?					
9. Are graphics and other visual aids used whenever possible to simplify the analysis?					
10. Are abbreviations and acronyms explained or defined?					
11. Is the use of abbreviations and acronyms minimized to the extent practical?					
12. Does the document make appropriate use of appendices (e.g., for material prepared in connection with the analysis and related environmental reviews, substantiating material, official communications, and descriptions of methodologies)? [40 CFR 1502.18 and 1502.24]					
13. Do the appendices support the content and conclusions contained in the main body of the document?					
14. Does the document contain copies of all pertinent correspondence?					

CNO (N45) NEPA/EO 12114 ENVIRONMENTAL CHECKLIST

Review Topic	Yes	No	N/A	Document Page	Adequacy Evaluation and Comments
III. Other General Requirements					
Does the NEPA or EO 12114 document include a:					
1. Distribution List - list of agencies, organizations, and persons to whom copies of the document were sent?					
2. List of consultations, permits, and other authorizations required and their status of approval?					
3. Does the document appropriately use incorporation by reference?					
4. Is the information up to date?					
5. Is the information summarized in the document?					
6. Are cited references publicly available? [40 CFR 1502.21]					
7. Does the document contain a list of preparers and their qualifications? [40 CFR 1502.17]					
8. Does the proposed action have force protection implications?					
9. Has the document been reviewed by the appropriate authorities to determine sensitivity level?					
IV. Cover Sheet					
Does the cover sheet:					
1. Include all required information on one page? (40 CFR 1502.11)					
2. Include the title of the proposed action?					
3. Identify the location of the proposed action (city or county, and state)?					
4. Identify the action proponent?					
5. Identify lead agency(ies)?					
6. Identify cooperating agencies (if any)?					
7. Identify the action proponent's point of contact, including name(s), command, address, telephone number, facsimile number, e-mail address?					
8. Include a one paragraph abstract of the document's contents?					

CNO (N45) NEPA/EO 12114 ENVIRONMENTAL CHECKLIST

Review Topic	Yes	No	N/A	Document Page	Adequacy Evaluation and Comments
9. Include the date of publication (month/year)?					
V. Executive Summary					
Does the Executive Summary describe:					
1. Lead agency and cooperating agency relationships?					
2. The underlying purpose and need for the proposed action?					
3. The proposed action?					
4. Is there more than one alternative, besides the No Action Alternative?					
5. Are the criteria for alternative selection clearly described?					
6. Are the alternative selection criteria applied in a logically manner?					
7. Is the preferred alternative identified? [must be identified in an FEIS]					
8. Does the summary highlight key differences among the alternatives?					
9. Does the summary stress:					
a. The major conclusions?					
b. Areas of controversy (including issues raised by agencies and the public)?					
c. Are the discussions in the Executive Summary consistent with the text or appendices?					
d. Does the Executive Summary adequately and accurately summarize the content and analysis of the document? [40 CFR 1502.12]					
e. Does the length of the Executive Summary exceed 15 pages for an EIS or 3 pages for an EA?					
VI. Purpose and Need					
1. Does the discussion specify the underlying purpose to which the Navy is responding in proposing the alternatives including the proposed action?					
2. Does the discussion specify the underlying need to which the Navy is responding in proposing the alternatives, including the proposed action?					
3. Does the purpose and need clearly delineate mission and operational requirements in the context of the scope of the proposed action?					

CNO (N45) NEPA/EO 12114 ENVIRONMENTAL CHECKLIST

Review Topic	Yes	No	N/A	Document Page	Adequacy Evaluation and Comments
4. Does the chapter discuss the lead agency and relationship with cooperating agencies?					
VII. Alternatives, Including the Proposed Action					
1. Does the document "rigorously explore and objectively evaluate the "reasonable alternatives" to be considered by the decision-maker? [40 CFR 1502.14(a)]					
2. As appropriate, does the document identify and analyze reasonable technology, transportation, or site alternatives, including those that could occur off-site?					
3. Are the criteria used to select alternatives clearly identified?					
4. Is a logical process used in applying the criteria to selecting alternatives?					
5. Is the no action alternative described in sufficient detail so that its scope is clear and the potential impacts can be identified?					
*6. If the Navy has a preferred alternative, is it identified? Must be identified in a FEIS but not a DEIS [40 CFR 1502.14(e)].					
7. For alternatives that were eliminated from detailed study, including those that appear obvious or were identified by the public, does the document explain fully and objectively why they were found to be unreasonable?					
8. Does the document present the potential environmental effects of the proposal and the alternatives in a comparative form, sharply defining the issues and providing a clear basis for choice?					
9. For each alternative analyzed in detail (including the no action alternative), is the depth of analysis approximately the same, allow reviewers to evaluate their comparative merits?					
10. Does the document take into account relationships between the proposed action and other actions to be taken by the Navy in order address connected actions, continuing actions, and similar actions, and avoid improper segmentation?					
VIII. Description of the Affected Environment					
1. Does the document succinctly describe the environment of the area(s) to be affected or created by the proposed actions and alternatives?					
2. Does discussion address conditions during the time of year/season when proposed action will be implemented?					
3. Does the document identify the presence or absence of the following within the study area (this list is not meant to be inclusive):					

CNO (N45) NEPA/EO 12114 ENVIRONMENTAL CHECKLIST

Review Topic	Yes	No	N/A	Document Page	Adequacy Evaluation and Comments
a. Geology and Soils?					
b. Water Resources:					
i. Water supply?					
ii. Water quality and sole source aquifers?					
iii. Floodplains					
iv. Wetlands					
v. Wild and Scenic Rivers? [40 CFR 1508.27(b)(3)]					
c. Terrestrial Biology?					
d. Marine Biology:					
i. Benthic sediments?					
ii. Marine mammals?					
iii. Fish and Essential Fish Habitat?					
iv. Coral reefs?					
e. Threatened or endangered species and/or their critical habitat (terrestrial and marine)?					
f. Air Quality?					
g. Noise?					
h. Airspace?					
i. Cultural Resources?					
j. Native American Concerns (if pertinent)?					
k. Socioeconomics?					
i. Demographics, employment, and income?					
ii. Minority and low-income populations?					
iii. Children and schools?					
l. Land Use?					
m. Coastal Zone Management Federal Consistency?					
n. Prime or Unique Farmland? [40 CFR 1508.7(b)(3)]					

CNO (N45) NEPA/EO 12114 ENVIRONMENTAL CHECKLIST

Review Topic	Yes	No	N/A	Document Page	Adequacy Evaluation and Comments
o. Parks, Forests, Including National Parks? [40 CFR 1508.27(b)(3)]					
p. Transportation?					
q. Hazardous Materials and Installation Restoration?					
r. Utilities (including electricity, natural gas, water, sewer, solid waste)?					
s. Public Health and Safety?					
t. Other Areas					
u. Other Areas					
v. Other Areas					
4. Do the descriptions of the affected environment provide the necessary information to support the impact analysis, including cumulative impact analysis? [40 CFR 1502.15]					
5. Is the discussion appropriately limited to information that is directly related to the scope of the proposed action and alternatives?					
6. Does the document avoid useless bulk and verbose descriptions of the affected environment and concentrate on important issues? [40 CFR 1502.15]					
IX. Environmental Effects					
1. Are alternatives discussed in the same order for each resource area?					
2. Are the direct and the indirect impacts of the proposed action and alternatives adequately identified and are they discussed in proportion to their significance? [40 CFR 1502.16(a) and (b)]					
3. Are both short- and long-term effects adequately analyzed?					
4. Are both beneficial and adverse impacts adequately analyzed? [40 CFR 1508.27(b)(1)]					
5. Does the document discuss reasonably foreseeable impacts of cumulative actions with regard to both the proposed action and alternatives? [40 CFR 1508.25(a)(2)]					
6. Does the document discuss the potential direct, indirect, and cumulative effects to the following:					
a. Geology and Soils?					

CNO (N45) NEPA/EO 12114 ENVIRONMENTAL CHECKLIST

Review Topic	Yes	No	N/A	Document Page	Adequacy Evaluation and Comments
b. Water Resources:					
i. Water supply?					
ii. Water quality and sole source aquifers?					
iii. Floodplains					
iv. Wetlands					
v. Wild and Scenic Rivers? [40 CFR 1508.27(b)(3)]					
c. Terrestrial Biology?					
d. Marine Biology?					
i. Benthic sediments?					
ii. Marine mammals?					
iii. Fish and Essential Fish Habitat?					
iv. Coral reefs?					
e. Threatened or endangered species and/or their critical habitat?					
f. Air Quality?					
g. Noise?					
h. Airspace?					
i. Cultural Resources?					
j. Native American Concerns (if pertinent)?					
k. Socioeconomics?					
i. Demographics, employment, and income?					
ii. Minority and low-income populations?					
iii. Children and schools?					
l. Land Use?					
m. Coastal Zone Management Federal Consistency?					
n. Prime or Unique Farmland? [40 CFR 1508.7(b)(3)]					

CNO (N45) NEPA/EO 12114 ENVIRONMENTAL CHECKLIST

Review Topic	Yes	No	N/A	Document Page	Adequacy Evaluation and Comments
o. Parks, Forests, Including National Parks? [40 CFR 1508.27(b)(3)]					
p. Transportation?					
q. Hazardous Materials and Installation Restoration?					
r. Utilities (including electricity, natural gas, water, sewer, solid waste)?					
s. Public Health and Safety?					
t. Other Areas					
u. Other Areas					
v. Other Areas					
w. Are applicable regulatory/statutory conclusions included for appropriate resources? (list of laws/regulations not inclusive)					
i. Endangered Species Act?					
ii. Marine Mammal Protection Act?					
iii. Essential Fish Habitat?					
iv. Coastal Zone Management Act?					
v. Migratory Bird Treaty Act?					
vi. National Historic Preservation Act?					
vii. Environmental Justice?					
viii. Prime Farmlands?					
6. *Does the EIS discuss possible conflicts with:					
a. *Land plans, policies, and controls? [40 CFR 1502.16(c)]					
b. *Energy requirements and conservation potential of various alternatives and mitigation measures? [40 CFR 1502.16(e)]					
7. Use of protective measures/standard operating procedures and/or means to mitigate adverse impacts?					
8. Are there monitoring requirements? If so, has CNO (N45) concurred with the recommended monitoring?					
9. *Does the EIS discuss:					

CNO (N45) NEPA/EO 12114 ENVIRONMENTAL CHECKLIST

Review Topic	Yes	No	N/A	Document Page	Adequacy Evaluation and Comments
a. *Unavoidable, adverse environmental effects?					
b. *The relationship between short-term uses of the environment and long-term productivity?					
c. *Any irreversible, irretrievable commitments of resources? [40 CFR 1502.16]					
10. Does the analysis avoid presenting a speculative description of severe impacts (e.g., from accidents), without also describing the likelihood/probability of such impacts occurring?					
11. Are environmental impacts quantified where possible?					
12. Are sufficient data and references presented to allow validation of analysis methods and results?					
13. *If information related to significant adverse effects is incomplete or unavailable, does the document state that such information is lacking and why?					
14. As appropriate, are important sources of uncertainty in the analyses and conclusions identified?					
15. Are cumulative impacts addressed?					
X. For an FEIS Only*					
*An agency must respond in the FEIS to comments received on the DEIS. Does the FEIS:					
1. *Assess and consider comments both individually and collectively?					
2. *Have attached to it all substantive comments (or summaries thereof if the comments have been exceptionally voluminous), received on the DEIS whether or not the comment is thought to merit individual discussion by the Navy in the text of the EIS?					
XI. Overall Considerations/Incorporation of NEPA/EO 12114 Values					
1. Does the analysis demonstrate that the Navy has taken a "hard look" at environmental consequences?					
2. Do the conclusions regarding potential impacts follow from the information and analyses presented in the document?					
3. Does the document avoid the appearance of justifying decisions that have already been made? [40 CFR 1502.5]					
4. Are technical analyses and methodologies used in the document generally accepted/recognized by the scientific community? [40 CFR 1502.22 and 1502.24]					



DEPARTMENT OF THE NAVY
CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

IN REPLY REFER TO

5090
Ser N456/8U595368
09 MAR 1998

From: Chief of Naval Operations


Subj: FORMAT FOR RECORDS OF DECISION (RODs) PREPARED PURSUANT
TO THE NATIONAL ENVIRONMENTAL POLICY ACT

Ref: (a) OPNAVINST 5090.1B

Encl: (1) ASN (IE) memo of 13 Feb 98

1. In an effort to simplify and facilitate NEPA compliance in the Navy, we have collaborated with the Secretariat to provide guidance on the format of draft RODs. Enclosure (1) shall be used when your command is preparing a draft ROD for a major federal action with significant impacts to the environment. Reference (a) explains responsibilities and procedures for NEPA compliance.

2. Thank you for your assistance in this effort. Please contact Ms. Kimberley DePaul at (703) 604-1233 if you have any questions or comments.


A. A. GRANUZZO
By direction

Copy to:
CINCLANTFLT (46)
CINCPACFLT (46)
COMNAVSEASYS COM (OOT)
COMNAVAIRSYS COM (8.OY)
COMNAVFACECOM (150)
COMNAVRESFOR (00,04)
CNET (00,04)

ATTACHMENT (O)



DEPARTMENT OF THE NAVY
THE ASSISTANT SECRETARY OF THE NAVY
(INSTALLATIONS AND ENVIRONMENT)
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

13 February 1998

MEMORANDUM FOR THE CHIEF OF NAVAL OPERATIONS (N4)
COMMANDANT OF THE MARINE CORPS (L)

Subj: DEPARTMENT OF THE NAVY ENVIRONMENTAL POLICY
MEMORANDUM 98-01; FORMAT FOR RECORDS OF DECISION UNDER
THE NATIONAL ENVIRONMENTAL POLICY ACT

Background. The National Environmental Policy Act (NEPA) requires federal agencies to follow a process designed to ensure that decision makers consider the environmental consequences of proposed actions. Council on Environmental Quality Regulations require that at the time of a decision, an agency shall prepare "...a concise public record of decision ." These records must clearly and accurately reflect the basis for a decision. The format for preparing a record of decision (ROD) has historically been at the discretion of the office(s) overseeing a NEPA document preparation. Quality assurance/quality control for draft RODs has been inconsistent. In order to assist those drafting these documents, this policy lays out a format for Department of the Navy RODs.

- INTRODUCTORY STATEMENT

Indicate what is being decided and what the decision is. (e.g., *Pursuant to Section 102 (2) (c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. Section 4332 (2) (c), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 CFR Parts 1500-1508, the Department of the Navy announces its decision to [describe the proposed action]. The [proposed action] will be accomplished as set out in alternative, described in the Final Environmental Impact Statement as the preferred alternative.*)

If the action is required by other legislation or other mandate, include the mandate as well in the first sentence after "Pursuant to..."

- BACKGROUND AND ISSUES

Provide only background that is essential for the reader to understand the issue(s) presented in this section of the ROD. Be consistent with information presented in the environmental impact statement.

This background should include legal background if appropriate. (e.g., *The recommendations of the 1995 Defense Base Closure and Realignment Commission (DBCRC), which were approved by the President and accepted by the Congress, directed*

Enclosure (1)

ATTACHMENT (O)

the Department of the Navy to relocate [activity x] to [location z]. Section [xxxx] requires the completion of this realignment no later than six years from the date the President transmitted the recommendations of the 1995 DBCRC to Congress.)

- **ALTERNATIVES CONSIDERED**

State, "A screening process, based upon criteria set out in the draft environmental impact statement, was conducted to identify a reasonable range of alternatives that would satisfy the Navy's (or Marine Corps') purpose and need." Summarize the range of alternatives.

Identify and explain the environmentally preferred alternative.

- **ENVIRONMENTAL IMPACTS**

Summarize the significant impacts of the selected alternative.

- **MITIGATION**

Identify any mitigation measures selected.

State whether all practicable means to avoid or minimize significant environmental harm from the selected alternative were adopted, and if not, why they were not.

Summarize any provisions for monitoring, where applicable, for mitigation.

- **RESPONSE TO COMMENTS RECEIVED REGARDING THE FINAL ENVIRONMENTAL IMPACT STATEMENT**

Summarize substantive comments received and provide the response to these comments.

- **CONCLUSIONS**

Explain the rationale for the decision. Discuss preferences among alternatives based on relevant factors including economic, technical, and mission considerations. Also identify and discuss any essential considerations of national policy which were factors that entered into the decision. Where applicable, discuss any factors that were not discussed in the Environmental Impact Statement (e.g., cost or operational considerations).

After explaining the rationale for the decision, the conclusion should be concise and to the point. (e.g., *Based on the analysis contained in the FEIS, the administrative*

record, and other factors discussed above, I select alternative [____] to implement the [proposed action].)

As a matter of special emphasis, the ROD must be totally consistent with information presented in the environmental impact statement (i.e., every factual assertion in the ROD must be supported by specific analysis/discussion in the environmental impact statement). The ROD must be grammatically correct and carefully proofread. It should also be written in standard English and should avoid the use of overly technical terms.

A handwritten signature in black ink, appearing to read "R. Pirie Jr.", with a stylized, cursive script.

ROBERT B. PIRIE, JR.